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# Finance Act 1988

## 1988 CHAPTER 39

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [29th July 1988]

<sup>X1</sup>Most Gracious Sovereign, WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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### **Editorial Information**

- X1** General amendments to Tax Acts, Income Tax Acts, and/or Corporation Tax Acts made by legislation after 1.2.1991 are noted against [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) but not against each Act

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### **Commencement Information**

- II** Act partly in force at Royal Assent, partly retrospective, see individual sections; all provisions so far as unrepealed wholly in force at 1.2.1991. Some provisions came in to force at specific times of the day

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## PART I

### CUSTOMS AND EXCISE

#### *Duties of excise: rates*

#### 1 Beer, wine, made-wine and cider.

- (1) In section 36 of the <sup>M1</sup>Alcoholic Liquor Duties Act 1979 (excise duty on beer)—
  - (a) for “£25.80” and “£0.86” there shall be substituted “ £27.00 ” and “ £0.90 ” respectively; and
  - (b) for the words from “at the rate” onwards there shall be substituted the words “ at the rate of £0.90 per hectolitre for every degree by which the original gravity of the beer exceeds 1000 degrees ”.
- (2) In sections 42(6) and 43(4) of that Act (rates of drawback), the words “but as respects” onwards shall cease to have effect.
- (3) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Part I of Schedule 1 to this Act.
- (4) In section 62(1) of that Act (excise duty on cider) for “£15.80” there shall be substituted “ £17.33 ”.
- (5) That Act shall have effect subject to the amendments set out in Part II of Schedule 1 to this Act (which relate to beverages of an alcoholic strength not exceeding 5.5 per cent.).
- (6) In this section—
  - (a) subsections (1)(a), (3) and (4) (with Part I of Schedule 1 to this Act) shall be deemed to have come into force at 6 o’clock in the evening of 15th March 1988;
  - (b) subsections (1)(b) and (2) shall come into force on 1st October 1988; and
  - (c) subsection (5) (with Part II of Schedule 1 to this Act) shall come into force on such day as the Commissioners may by order made by statutory instrument appoint;
 and different days may be appointed under paragraph (c) above for different provisions or different purposes.

#### Subordinate Legislation Made

**P1** Power of appointment conferred by s. 1(6) fully exercised: 1.10.1988 appointed by [S.I. 1988/1634](#), [art. 2](#)

#### Marginal Citations

**M1** 1979 c. 4.

#### 2 Tobacco products.

- (1) For the Table in Schedule 1 to the <sup>M2</sup>Tobacco Products Duty Act 1979 there shall be substituted—

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“ TABLE

1. Cigarettes	An amount equal to 21 per cent. of the retail price plus £31.74 per thousand cigarettes.
2. Cigars	£48.79 per kilogram.
3. Hand-rolling tobacco	£51.48 per kilogram.
4. Other smoking tobacco and chewing tobacco	£24.95 per kilogram.”

(2) This section shall be deemed to have come into force on 18th March 1988.

**Marginal Citations**

M2 1979 c. 7.

**3 Hydrocarbon oil.**

(1) In section 6(1) of the <sup>M3</sup>Hydrocarbon Oil Duties Act 1979, for “£0.1938” (light oil) and “£0.1639” (heavy oil) there shall be substituted “ £0.2044 ” and “ £0.1729 ” respectively.

(2) In section 13A of that Act (rebate on unleaded petrol), for “£0.0096” there shall be substituted “ £0.0202 ”.

(3) This section shall be deemed to have come into force at 6 o’clock in the evening of 15th March 1988.

**Marginal Citations**

M3 1979 c. 5.

**4 Vehicles excise duty.**

(1) The <sup>M4</sup>Vehicles (Excise) Act 1971 (“the 1971 Act”) and the <sup>M5</sup>Vehicles (Excise) Act (Northern Ireland) 1972 (“the 1972 Act”) shall be amended as follows.

(2) In Part I of Schedule 1 to each Act (annual rates of duty on motor bicycles etc.), in paragraph 2 (concession for certain bicycles first licensed before 1933 or, in Northern Ireland, 1935)—

(a) in sub-paragraph (a), for the words “for which a licence was taken out before the beginning of the year” there shall be substituted the words “constructed before”; and

(b) in sub-paragraph (b), for the words “224 pounds” there shall be substituted the words “101.6 kilograms”.

(3) In Part I of Schedule 3 to each Act (annual rates of duty on tractors etc.)—

(a)

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- <sup>F1</sup>(b) at the end of sub-paragraph (2) of paragraph 8 (recovery vehicles) there shall be added “and
- (e) any purpose prescribed for the purposes of this sub-paragraph”
- (c) in sub-paragraph (3) of that paragraph, in paragraph (c), for the word “paragraph” there shall be substituted the word “sub-paragraph”;
- (d) after that sub-paragraph there shall be inserted—
- “(4) A vehicle which is constructed or permanently adapted as mentioned in sub-paragraph (1) above shall not be a recovery vehicle if at any time the number of vehicles which it is used to recover exceeds a number specified by an order of the Secretary of State made for the purposes of this sub-paragraph.
- (5) The power to make an order under sub-paragraph (4) above shall be exercisable by statutory instrument; but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”
- (4) In Part II of Schedule 4 to the 1971 Act (annual rates of duty on goods vehicles), for Tables A, A(1) and A(2) (rates for rigid goods vehicles having plated gross weight exceeding 12 tonnes) there shall be substituted the Tables set out in Part I of Schedule 2 to this Act.
- (5) The Tables set out in Part I of Schedule 2 to this Act shall also be substituted for Tables A, A(1) and A(2) in Part II of Schedule 4 to the 1972 Act, but modified for that purpose by the substitution for any reference to a plated gross weight of a reference to a relevant maximum weight.
- (6) In Part II of Schedule 5 to each Act (annual rates of duty on motor cars etc.), in column 1, for paragraph 1 (vehicles first registered before 1947) there shall be substituted—
- “1 Vehicles constructed before 1947.”
- (7) The amendments of the 1971 and 1972 Acts set out in Part II of Schedule 2 to this Act shall have effect for the purpose of, and in connection with, establishing vehicles carrying or drawing exceptional loads as a class of vehicles chargeable with a specific duty of excise.
- (8) Section 2(1)(c) of the 1971 Act and section 2(1)(c) and (d) of the 1972 Act (seven day licences) shall cease to have effect.
- (9) Subsections (2) and (4) to (6) above shall have effect in relation to licences taken out after 15th March 1988; and subsections (7) and (8) above shall be deemed to have come into force on 1st June 1988.

#### Textual Amendments

**F1** S. 4(3)(a) repealed by Finance Act 1989 (c. 26, SIF 107:2), s. 187(1), Sch. 17 Pt. II (in relation to licences taken out after 14.3.1989)

#### Marginal Citations

**M4** 1971 c. 10.

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**M5** 1972 c. 10 (N.I.).

*Duties of excise: other provisions*

**5 Relief from excise duty on goods imported for testing etc.**

- (1) After section 11 of the <sup>M6</sup>Customs and Excise Duties (General Reliefs) Act 1979 there shall be inserted—

**“11A Relief from excise duty on goods imported for testing etc.**

- (1) The Commissioners may by order provide that, in such cases and subject to such exceptions as may be specified in the order, goods imported into the United Kingdom for the sole or main purpose—
- (a) of being examined, analysed or tested; or
  - (b) of being used to test other goods,
- shall be relieved from excise duty chargeable on importation; and any such relief may take the form either of an exemption from payment of duty or of a provision whereby the sum payable by way of duty is less than it otherwise would be.
- (2) An order under this section—
- (a) may make any relief for which it provides subject to conditions specified in or under the order, including conditions to be complied with after the importation of the goods to which the relief applies;
  - (b) may contain such incidental and supplementary provisions as the Commissioners think necessary or expedient; and
  - (c) may make different provision for different cases.
- (3) In this section, references to excise duty include any additions to such duty by virtue of section 1 of the Excise Duties (Surcharges or Rebates) Act 1979.”
- (2) In section 17 of that Act (statutory instruments containing orders or regulations: parliamentary procedure)—
- (a) after “7” in subsection (3) and after “4” in subsection (4) there shall be inserted “ , 11A ”; and
  - (b) for “or 4” in subsection (5) there shall be substituted “ , 4 or 11A ”.

**Marginal Citations**

**M6** 1979 c. 3.

**6 Remission of duty in respect of spirits used for medical or scientific purposes.**

- (1) For section 8 of the <sup>M7</sup>Alcoholic Liquor Duties Act 1979 there shall be substituted—

**“8 Remission of duty in respect of spirits used for medical or scientific purposes.**

- (1) Where a person proposes to use spirits —

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- (a) in the manufacture or preparation of any article recognised by the Commissioners as being an article used for medical purposes; or
  - (b) for scientific purposes, the Commissioners may, if they think fit and subject to such conditions as they see fit to impose, authorise that person to receive, and permit the delivery from warehouse to that person of, spirits for that use without payment of the duty chargeable thereon.
- (2) If any person contravenes or fails to comply with any condition imposed under this section then, in addition to any other penalty he may have incurred, he shall be liable on summary conviction to a penalty of level 3 on the standard scale.”
- (2) In section 22 of that Act (drawback on British compounds and spirits of wine), subsection (7) shall cease to have effect.
- (3)
- <sup>F2</sup>(4) In section 33 of that Act (restrictions on use of certain goods relieved from spirits duty)—
- (a) in paragraph (c) of subsection (1), for the word “repayment” there shall be substituted the word “ remission ”;
  - (b) paragraph (d) of that subsection and the word “or” immediately preceding that paragraph shall cease to have effect; and
  - (c) in paragraph (b) of subsection (2), for the words “repaid or assumed to be repayable” there shall be substituted the word “ remitted ”.

#### Textual Amendments

**F2** S. 6(3) repealed by Finance Act 1990 (c. 29, SIF 40:1), s. 132, Sch. 19 Pt. I

#### Marginal Citations

**M7** 1979 c. 4.

## 7 Meaning of “sparkling” in relation to wine and made-wine.

In Schedule 1 to the <sup>M8</sup> Alcoholic Liquor Duties Act 1979 (wine and made-wine), in paragraph 1(1) under the heading “Interpretation” (meaning of “sparkling”), for the words “1 bar in excess of atmospheric pressure” there shall be substituted the words “ 1.5 bars in excess of atmospheric pressure ”.

#### Marginal Citations

**M8** 1979 c. 4.

### Management

## 8 Disclosure of information as to imports.

- (1) The Commissioners may, for the purpose of supplementing the information as to imported goods which may be made available to persons other than the

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Commissioners, disclose information to which this section applies to such persons as they think fit.

- (2) Such information may be so disclosed on such terms and conditions (including terms and conditions as to the payment of fees or charges to the Commissioners and the making of the information available to other persons) as the Commissioners think fit.
- (3) This section applies to information consisting of the names and addresses of persons declared as consignees in entries of imported goods, arranged by reference to such classifications of imported goods as the Commissioners think fit.
- (4) This section shall be construed as if it were contained in the <sup>M9</sup>Customs and Excise Management Act 1979.

#### **Marginal Citations**

**M9** 1979 c. 2.

### **9 Approval and regulation of warehouses.**

- (1) In section 92(2) of the Customs and Excise Management Act 1979 (approval of warehouses), for paragraph (b) there shall be substituted—
  - “(b) of such other goods as the Commissioners may allow to be warehoused—
    - (i) for exportation or for use as stores in cases where relief from or repayment of any customs duty or other payment is conditional on their exportation or use as stores; or
    - (ii) for exportation or for use for a purpose referred to in a Community regulation in cases where payment of an export refund under such a regulation is conditional on their exportation or use for such a purpose.”
- (2) In section 93(2) of that Act (regulation of warehouses and warehoused goods), in paragraph (c) the words “(other than operations consisting of the mixing of spirits with wine or made-wine)” shall cease to have effect.

### **10 Power to search persons.**

- (1) In subsection (1) of section 164 of the <sup>M10</sup> Customs and Excise Management Act 1979 (power to search persons)—
  - (a) after the words “person to whom this section applies” there shall be inserted the words “ (referred to in this section as the suspect) ”; and
  - (b) for the words from “any officer” onwards there shall be substituted the words “ an officer may exercise the powers conferred by subsection (2) below and, if the suspect is not under arrest, may detain him for so long as may be necessary for the exercise of those powers and (where applicable) the exercise of the rights conferred by subsection (3) below ”.
- (2) For subsections (2) and (3) of that section there shall be substituted—
  - “(2) The officer may require the suspect—
    - (a) to permit such a search of any article which he has with him; and

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- (b) subject to subsection (3) below, to submit to such searches of his person, whether rub-down, strip or intimate, as the officer may consider necessary or expedient; but no such requirement may be imposed under paragraph (b) above without the officer informing the suspect of the effect of subsection (3) below.
- (3) If the suspect is required to submit to a search of his person, he may require to be taken—
- (a) except in the case of a rub-down search, before a justice of the peace or a superior of the officer concerned; and
- (b) in the excepted case, before such a superior;
- and the justice or superior shall consider the grounds for suspicion and direct accordingly whether the suspect is to submit to the search.
- (3A) A rub-down or strip search shall not be carried out except by a person of the same sex as the suspect; and an intimate search shall not be carried out except by a suitably qualified person.”
- (3) After subsection (4) of that section there shall be inserted—
- “(5) In this section—
- “intimate search” means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person’s body orifices;
- “rub-down search” means any search which is neither an intimate search nor a strip search;
- “strip search” means any search which is not an intimate search but which involves the removal of an article of clothing which—
- (a) is being worn (wholly or partly) on the trunk; and
- (b) is being so worn either next to the skin or next to an article of underwear;
- “suitably qualified person” means a registered medical practitioner or a registered nurse.
- (6) Notwithstanding anything in subsection (4) of section 48 of the Criminal Justice (Scotland) Act 1987 (detention and questioning by customs officers), detention of the suspect under subsection (1) above shall not prevent his subsequent detention under subsection (1) of that section.”

#### Marginal Citations

M10 1979 c. 2.

## 11 Time limits for arrest and proceedings.

- (1) In section 138(1) of the <sup>M11</sup>Customs and Excise Management Act 1979 (power to arrest within 3 years of commission of offence) for the words “3 years” there shall be substituted the words “ 20 years ”.

(2)

- <sup>F3</sup>(3) This section has effect in relation to offences committed after the passing of this Act.



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#### Textual Amendments

**F3** S. 11(2) repealed by Finance Act 1989 (c. 26, SIF 40:1), s. 187(1), Sch. 17 Pt. I

#### Marginal Citations

**M11** 1979 c. 2.

## 12 Punishment of offences.

(1) In the following enactments (which provide for the punishment on conviction on indictment of certain offences), namely—

- (a) sections 50(4)(b), 53(9)(b), 63(6)(b), 68(3)(b), 100(4)(b), 159(7)(b) and 170(3)(b) of the <sup>M12</sup>Customs and Excise Management Act 1979;
- (b) sections 10(7)(b), 13(5)(b) and 14(8)(b) of the <sup>M13</sup>Hydrocarbon Oil Duties Act 1979;
- (c) paragraph 16(1)(b) of Schedule 3 to the <sup>M14</sup>Betting and Gaming Duties Act 1981; and
- (d) paragraph 8(1)(b) of Schedule 1 to the <sup>M15</sup>Car Tax Act 1983,

for the words “2 years” or “two years” there shall be substituted the words “7 years” or “seven years”, as appropriate.

(2) For subsection (2) of section 68A of the Customs and Excise Management Act 1979 there shall be substituted—

“(2) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
- (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both.”

(3) For subsections (1) and (2) of section 136 of that Act there shall be substituted—

“(1) If any person, with intent to defraud Her Majesty, obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way of drawback, allowance, remission or repayment of, or any rebate from, any duty in respect of any goods which—

- (a) is not lawfully payable or allowable in respect thereof; or
- (b) is greater than the amount so payable or allowable,

he shall be guilty of an offence under this subsection.

(1A) If any person, without such intent as is mentioned in subsection (1) above, does any of the things there mentioned, he shall be guilty of an offence under this subsection.

(2) A person guilty of an offence under subsection (1) above shall be liable—

- (a) on summary conviction, to a penalty of the prescribed sum or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or
- (b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both;

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and a person guilty of an offence under subsection (1A) above shall be liable on summary conviction to a penalty of level 3 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater.” and in subsection (3) of that section, after the words “subsection (1)” there shall be inserted the words “or (1A)”.

(4) Paragraph 13 of Schedule 1 and paragraph 7 of Schedule 2 to the <sup>M16</sup>Betting and Gaming Duties Act 1981 shall each be amended as follows—

- (a) in sub-paragraph (3), in paragraph (a), the words from “or, with intent” to “material particular” shall cease to have effect;
- (b) after that paragraph there shall be inserted—
  - “(aa) in that connection, with intent to deceive, produces or makes use of any book, account, record, return or other document which is false in a material particular, or”
- (c) in paragraph (ii) of that sub-paragraph, for the words “two years” there shall be substituted the words “the maximum term”; and
- (d) after that sub-paragraph there shall be inserted—

“(4) In sub-paragraph (3) above, “the maximum term” means two years in the case of an offence under paragraph (a) and seven years in the case of an offence under paragraph (aa) or (b) of that sub-paragraph.”

(5) Paragraph 8 of Schedule 1 to the <sup>M17</sup>Car Tax Act 1983 shall be amended as follows—

- (a) in paragraph (ii) of sub-paragraph (2), for the words “two years” there shall be substituted the words “the maximum term”; and
- (b) after that sub-paragraph there shall be inserted—

“(2A) In sub-paragraph (2) above, “the maximum term” means seven years in the case of an offence under paragraph (a) or (c) and two years in the case of an offence under paragraph (b) of that sub-paragraph.”

(6) This section has effect in relation to offences committed after the passing of this Act.

#### Marginal Citations

**M12** 1979 c. 2.

**M13** 1979 c. 5.

**M14** 1981 c. 63.

**M15** 1983 c. 53.

**M16** 1981 c. 63.

**M17** 1983 c. 53.

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## PART II

### VALUE ADDED TAX

#### *Exemptions*

#### **13 Medical services and goods.**

- (1) In Schedule 6 to the <sup>M18</sup>Value Added Tax Act 1983 (exemptions), Group 7 (health and welfare) shall be amended as follows.
- (2) For items 1, 1A and 2 there shall be substituted—

“1 The supply of services by a person registered or enrolled in any of the following—

- (a) the register of medical practitioners or the register of medical practitioners with limited registration;
- (b) either of the registers of ophthalmic opticians or the register of dispensing opticians kept under the Opticians Act 1958 or either of the lists kept under section 4 of that Act of bodies corporate carrying on business as ophthalmic opticians or as dispensing opticians;
- (c) any register kept under the Professions Supplementary to Medicine Act 1960;
- (d) the register of qualified nurses, midwives and health visitors kept under section 10 of the Nurses, Midwives and Health Visitors Act 1979;
- (e) the register of dispensers of hearing aids or the register of persons employing such dispensers maintained under section 2 of the Hearing Aid Council Act 1968.

2 The supply of any services or dental prostheses by—

- (a) a person registered in the dentists' register;
- (b) a person enrolled in any roll of dental auxiliaries having effect under section 45 of the Dentists Act 1984; or
- (c) a dental technician.”

- (3) In note (2), for the words “Paragraphs (a) to (f) of item 1 includes supplies” there shall be substituted the words “Paragraphs (a) to (d) of item 1 and paragraphs (a) and (b) of item 2 include supplies of services”.

- (4) This section shall have effect in relation to supplies made on or after 1st September 1988.

#### **Marginal Citations**

**M18** 1983 c. 55.

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### *Administration*

#### **14 Registration.**

- (1) Schedule 1 to the <sup>M19</sup>Value Added Tax Act 1983 (registration) shall be amended in accordance with subsections (2) to (7) below.
- (2) In paragraphs 1(5) and 2(3) (capital assets of business to be disregarded), after the word “goods” there shall be inserted the words “or services”.
- (3) In paragraph 4(3) (registration with effect from beginning of period where taxable supplies for the first thirty days exceed specified amount), for “£21,300” there shall be substituted “£22,100”.
- (4) For paragraph 5 there shall be substituted—

**“5 Entitlement to be registered**

Where a person who is not liable to be registered satisfies the Commissioners that he—

- (a) makes taxable supplies; or
- (b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,

they shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between them and him.

“5A (1) Where a person who is not liable to be registered satisfies the Commissioners that he—

- (a) makes supplies within sub-paragraph (2) below; or
- (b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,

and (in either case) is within sub-paragraph (3) below, they shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between them and him.

- (2) A supply is within this sub-paragraph if—
  - (a) it is made outside the United Kingdom but would be a taxable supply if made in the United Kingdom; or
  - (b) section 35 of this Act provides that it is to be disregarded for the purposes of this Act, and it would otherwise be a taxable supply.
- (3) A person is within this sub-paragraph if—
  - (a) he has a business establishment in the United Kingdom or his usual place of residence is in the United Kingdom; and
  - (b) he does not make and does not intend to make taxable supplies.
- (4) For the purposes of this paragraph—
  - (a) a person carrying on a business through a branch or agency in the United Kingdom shall be treated as having a business establishment in the United Kingdom; and
  - (b) “usual place of residence”, in relation to a body corporate, means the place where it is legally constituted.”

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(5) For paragraph 7 and the heading preceding that paragraph there shall be substituted—

**“7 Notification of end of liability or entitlement etc.**

A person registered under paragraph 3, 4 or 5 above who ceases to make or have the intention of making taxable supplies shall notify the Commissioners of that fact within thirty days of the day on which he does so.

**“7A** A person registered under paragraph 5A above who—

(a) ceases to make or have the intention of making supplies within subparagraph (2) of that paragraph; or

(b) makes or forms the intention of making taxable supplies,

shall notify the Commissioners of that fact within thirty days of the day on which he does so.”

(6) For paragraphs 9 and 10 there shall be substituted—

**“8A Cancellation of registration**

(1) Where a registered person satisfies the Commissioners that he is not liable to be registered, they shall, if he so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between them and him.

(2) In this paragraph and paragraphs 9 and 10 below, any reference to a registered person includes a reference to a person registered before their coming into force.

**“9** (1) Where the Commissioners are satisfied that a registered person has ceased to be registrable, they may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between them and him.

(2) In this paragraph and paragraph 10 below, “registrable” means liable or entitled to be registered.

**“10** Where the Commissioners are satisfied that on the day on which a registered person was registered he was not registrable, they may cancel his registration with effect from that day.”

(7) For paragraphs 11, 11A and 12 and the heading preceding paragraph 11 there shall be substituted—

**“11 Exemption from registration**

(1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make taxable supplies satisfies the Commissioners that any such supply is zero-rated or would be zero-rated if he were a taxable person, they may, if he so requests and they think fit, exempt him from registration until it appears to them that the request should no longer be acted upon or is withdrawn.

*Status: Point in time view as at 27/07/1991.*

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- (2) Where there is a material change in the nature of the supplies made by a person exempted from registration under this paragraph, he shall notify the Commissioners of the change—
- (a) within thirty days of the date on which it occurred; or
  - (b) if no particular day is identifiable as the day on which it occurred, within thirty days of the end of the quarter in which it occurred.
- (3) Where there is a material alteration in any quarter in the proportion of taxable supplies of such a person that are zero-rated, he shall notify the Commissioners of the alteration within thirty days of the end of the quarter.

## 12 Power to vary specified sums by order

The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as they think fit.”

- (8) In consequence of the foregoing provisions of this section—
- (a) in section 2(5) of the <sup>M20</sup>Value Added Tax Act 1983, for the words “paragraph 11A” there shall be substituted the words “paragraph 5A”; and
  - (b) in section 18(1)(c) of the <sup>M21</sup>Finance Act 1985, for the words “paragraph 11(1)(a)” there shall be substituted the words “paragraph 11(1)”.

### Marginal Citations

- M19** 1983 c. 55.  
**M20** 1983 c. 55.  
**M21** 1985 c. 54.

## 15 Assessment of tax due.

- (1) Paragraph 4 of Schedule 7 to the Value Added Tax Act 1983 (assessment of tax due) shall be amended as follows.
- (2) For sub-paragraph (2) there shall be substituted—
- “(2) In any case where, for any prescribed accounting period, there has been paid or credited to any person—
- (a) as being a repayment or refund of tax, or
  - (b) as being due to him under section 14(5) of this Act,
- an amount which ought not to have been so paid or credited, the Commissioners may assess that amount as being tax due from him for that period and notify it to him accordingly.
- (2A) An amount—
- (a) which has been paid to any person as being due to him under section 14(5) of this Act; and
  - (b) which, by reason of the cancellation of that person’s registration under paragraph 9 or 10 of Schedule 1 to this Act, ought not to have been so paid,
- may be assessed under sub-paragraph (2) above notwithstanding that cancellation.”

*Status: Point in time view as at 27/07/1991.*

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- (3) In sub-paragraph (5), for the words “(1) or (2)” there shall be substituted the words “(1), (2) or (2A)”.
- (4) In sub-paragraph (9), for the words “(1), (2) or (6)” there shall be substituted the words “(1), (2), (2A) or (6)”.

### *Civil penalties*

## **16 Serious misdeclaration or neglect resulting in understatements or overclaims.**

- (1) Section 14 of the <sup>M22</sup>Finance Act 1985 (serious misdeclaration or neglect resulting in understatements or overclaims) shall be amended as follows.
- (2) For subsections (2) and (3) there shall be substituted—
  - “(2) The circumstances referred to in subsection (1) above are that the tax for the period concerned which would have been lost if the inaccuracy had not been discovered—
    - (a) equals or exceeds 30 per cent. of the true amount of tax for that period, or
    - (b) equals or exceeds whichever is the greater of £10,000 and 5 per cent. of the true amount of tax for that period.”
- (3) In subsection (4) for the words “The references in subsections (1) to (3) above” there shall be substituted the words “Any reference in this section”.
- (4) In subsection (5) for the words “subsections (2)(a) and (3) above” there shall be substituted the words “this section”.
- (5) After that subsection there shall be inserted—
  - “(5A) Where—
    - (a) a return for any prescribed accounting period overstates or understates to any extent a person’s liability to tax or his entitlement to a payment under section 14(5) of the principal Act, and
    - (b) that return is corrected, in such circumstances and in accordance with such conditions as may be prescribed, by a return for a later such period which understates or overstates, to the corresponding extent, that liability or entitlement,it shall be assumed for the purposes of subsection (5) above that the statement made by each of those returns is a correct statement for the accounting period to which it relates.
  - (5B) This section shall have effect in relation to a body which is registered and to which section 20 of the principal Act applies as if—
    - (a) any reference to a payment under section 14(5) of that Act included a reference to a refund under the said section 20, and
    - (b) any reference to credit for input tax included a reference to tax chargeable on supplies or importations which were not for the purposes of any business carried on by the body.”

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#### Marginal Citations

M22 1985 c. 54.

### 17 Persistent misdeclaration resulting in understatements or overclaims.

After section 14 of the <sup>M23</sup>Finance Act 1985 there shall be inserted—

#### “14A Persistent misdeclaration resulting in understatements or overclaims.

- (1) In any case where—
  - (a) for a prescribed accounting period (including one beginning before the commencement of this section), a return has been made which understates a person’s liability to tax or overstates his entitlement to a payment under section 14(5) of the principal Act; and
  - (b) the tax for that period which would have been lost if the inaccuracy had not been discovered equals or exceeds whichever is the greater of £100 and 1 per cent. of the true amount of tax for that period,

the inaccuracy shall be regarded, subject to subsections (5) and (6) below, as material for the purposes of this section.
- (2) Subsection (3) below applies in any case where—
  - (a) there is a material inaccuracy in respect of any two prescribed accounting periods; and
  - (b) the last day of the later one of those periods falls on or before the second anniversary of the last day of the earlier one; and
  - (c) after the coming into operation of this section, the Commissioners serve notice on the person concerned (in this section referred to as “a penalty liability notice”) specifying as a penalty period for the purposes of this section a period beginning on the date of the notice and ending on the second anniversary of that date.
- (3) If there is a material inaccuracy in respect of a prescribed accounting period ending within the penalty period specified in a penalty liability notice served on the person concerned, that person shall be liable to a penalty equal to 15 per cent. of the tax for that period which would have been lost if the inaccuracy had not been discovered.
- (4) Subsections (4) to (5B) of section 14 above shall apply for the purposes of this section as they apply for the purposes of that section.
- (5) An inaccuracy shall not be regarded as material for the purposes of this section if—
  - (a) the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the inaccuracy; or
  - (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, so far as they relate to tax, the person concerned furnished to the Commissioners full information with respect to the inaccuracy.



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- (6) Where by reason of conduct falling within subsection (1) above—
- (a) a person is convicted of an offence (whether under the principal Act or otherwise); or
  - (b) a person is assessed to a penalty under section 13 or 14 above,
- the inaccuracy concerned shall not be regarded as material for the purposes of this section.
- (7) In any case where subsection (5) or (6) above applies, any penalty liability notice the service of which depended upon the inaccuracy concerned shall be deemed not to have been served.”

#### Marginal Citations

M23 1985 c. 54.

### 18 Failures to notify and unauthorised issue of invoices.

- (1) In subsection (1) of section 15 of the <sup>M24</sup>Finance Act 1985 (failures to notify and unauthorised issue of invoices)—
- (a) in paragraph (a), after the words “paragraphs 3, 4 and 11(2)” there shall be inserted the words “and (3)”;
  - (b) in paragraph (b), for the words “an invoice” there shall be substituted the words “one or more invoices”; and
  - (c) for the words “30 per cent.” there shall be substituted the words “the specified percentage”.
- (2) In subsection (3) of that section—
- (a) in paragraph (a), for the word “discovered” there shall be substituted the words “became fully aware of”;
  - (b) in paragraph (b), after the words “sub-paragraph (2)” there shall be inserted the words “or (3)” and for the word “discovered” there shall be substituted the words “became fully aware of”; and
  - (c) in paragraph (c), for the words “such an invoice as is” there shall be substituted the words “one or more such invoices as are” and for the words from “the amount” onwards there shall be substituted the words
- “the amount which is, or the aggregate of the amounts which are—
- (i) shown on the invoice or invoices as tax, or
  - (ii) to be taken as representing tax.”
- (3) After that subsection there shall be inserted—
- “(3A) For the purposes of subsection (1) above the specified percentage is—
- (a) 10 per cent. where the relevant tax is given by paragraph (a) or (b) of subsection (3) above and the period referred to in that paragraph does not exceed nine months;
  - (b) 20 per cent. where that tax is so given and the period so referred to exceeds nine months but does not exceed eighteen months; and
  - (c) 30 per cent. in any other case.”
- (4) In section 18 of that Act—

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- (a) subsection (2) (which provides for tax to carry interest in certain cases of conduct falling within section 15(1)(a) of that Act) shall cease to have effect; and
  - (b) in subsection (3), for the words “If, in a case where subsection (2) does not apply” there shall be substituted the words “In any case where”.
- (5) Where—
- (a) a person is liable to a penalty for conduct falling within paragraph (a) of subsection (1) of section 15 of that Act; and
  - (b) any relevant tax by reference to which that penalty is to be assessed is payable for a period before 16th March 1988,
- that subsection shall apply without the amendment made by subsection (1)(c) above in relation to so much of the assessment as is to be made by reference to that tax.
- (6) Subsections (1)(b) and (c), (2)(c) and (3) above shall be deemed to have come into force on 16th March 1988.

#### Marginal Citations

M24 1985 c. 54.

## 19 Breaches of regulatory provisions.

- (1) In subsection (1) of section 17 of the <sup>M25</sup>Finance Act 1985 (breaches of regulatory provisions)—
- (a) after the words “paragraph 7” there shall be inserted the words “or 7A” and for the words “(notification of cessation of taxable supplies)” there shall be substituted the words “(notification of end of liability or entitlement to be registered etc.)”; and
  - (b) for the words from “to a daily penalty” to the end there shall be substituted the words “to a penalty equal to the prescribed rate multiplied by the number of days on which the failure continues (up to a maximum of 100) or, if it is greater, to a penalty of £50.”
- (2) In subsection (3) of that section, for “£10”, “£20” and “£30” there shall be substituted “£5”, “£10” and “£15” respectively.
- (3) In subsection (1) of section 21 of that Act (assessment of amounts due by way of penalty, interest or surcharge), after the words “the Commissioners may” there shall be inserted the words “subject to subsection (1A) below” and after that subsection there shall be inserted—
- “(1A) Where a person is liable to a penalty under section 17 above for any failure to comply with such a requirement as is referred to in subsection (1)(b) to (e) of that section, no assessment shall be made under this section of the amount due from him by way of such penalty unless, within the period of two years preceding the assessment, the Commissioners have issued him with a written warning of the consequences of a continuing failure to comply with that requirement.”
- (4) Where—

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- (a) a person is liable to a penalty for any failure to comply with such a requirement as is referred to in subsection (1) of section 17 of that Act; and
- (b) any of the days by reference to which that penalty is to be assessed fall before 16th March 1988,

subsection (3) of that section shall apply without the amendments made by subsection (2) above in relation to so much of the assessment as is to be made by reference to those days.

- (5) Subsections (1)(b), (2) and (3) above shall be deemed to have come into force on 16th March 1988.

#### Marginal Citations

M25 1985 c. 54.

### Miscellaneous

## 20 Repayment supplement.

For section 20 of the <sup>M26</sup>Finance Act 1985 there shall be substituted—

### “20 Repayment supplement in respect of certain delayed payments or refunds.

- (1) In any case where—
  - (a) a person is entitled to a payment under section 14(5) of the principal Act, or
  - (b) a body which is registered and to which section 20 of that Act applies is entitled to a refund under that section,and the conditions mentioned in subsection (2) below are satisfied, the amount which, apart from this section, would be due by way of that payment or refund shall be increased by the addition of a supplement equal to 5 per cent. of that amount or £30, whichever is the greater.
- (2) The said conditions are—
  - (a) that the requisite return or claim is received by the Commissioners not later than one month after the last day on which it is required to be furnished or made, and
  - (b) that a written instruction directing the making of the payment or refund is not issued by the Commissioners within the period of thirty days beginning on the date of the receipt by the Commissioners of that return or claim, and
  - (c) that the amount shown on that return or claim as due by way of payment or refund does not exceed the payment or refund which was in fact due by more than 5 per cent. of that payment or refund or £250, whichever is the greater.
- (3) Regulations may provide that, in computing the period of thirty days referred to in subsection (2)(b) above, there shall be left out of account periods determined in accordance with the regulations and referable to—

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- (a) the raising and answering of any reasonable inquiry relating to the requisite return or claim,
  - (b) the correction by the Commissioners of any errors or omissions in that return or claim, and
  - (c) in the case of a payment, the following matters, namely—
    - (i) any such continuing failure to submit returns as is referred to in section 14(7) of the principal Act, and
    - (ii) compliance with any such condition as is referred to in paragraph 5(1) of Schedule 7 to that Act (production of documents or giving of security as a condition of payment).
- (4) Except for the purpose of determining the amount of the supplement—
- (a) a supplement paid to any person under subsection (1)(a) above shall be treated as an amount due to him by way of credit under section 14(5) of the principal Act, and
  - (b) a supplement paid to any body under subsection (1)(b) above shall be treated as an amount due to it by way of refund under section 20 of that Act.
- (5) In this section “requisite return or claim” means—
- (a) in relation to a payment, the return for the prescribed accounting period concerned which is required to be furnished in accordance with regulations under the principal Act, and
  - (b) in relation to a refund, the claim for that refund which is required to be made in accordance with the Commissioners’ determination under section 20 of that Act.
- (6) Subsection (1)(a) above shall have effect with respect to any prescribed accounting period ending, and subsection (1)(b) above shall have effect with respect to any claim made, on or after such day as the Treasury may by order made by statutory instrument appoint.
- (7) If the Treasury by order made by statutory instrument so direct, any period specified in the order shall be disregarded for the purpose of calculating the period of thirty days referred to in subsection (2)(b) above.”

#### **Marginal Citations**

M26 1985 c. 54.

## **21 Set-off of credits.**

In any case where

- (a) an amount is due from the Commissioners to any person under the <sup>M27</sup>Value Added Tax Act 1983 or Chapter II of Part I of the <sup>M28</sup>Finance Act 1985; and
- (b) that person is liable to pay a sum by way of tax, penalty, interest or surcharge,

the amount referred to in paragraph (a) above shall be set against the sum referred to in paragraph (b) above and, accordingly, to the extent of the set-off, the obligations of the Commissioners and the person concerned shall be discharged.

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**Modifications etc. (not altering text)**

C1 S. 21 restricted (19.8.1992) by S.I. 1992/1844, reg. 7(4).

**Marginal Citations**

M27 1983 c. 55.

M28 1985 c. 54.

**22 Invoices provided by recipients of goods or services.**

Where—

- (a) a taxable person (in this section referred to as “the recipient”) provides a document to himself which purports to be an invoice in respect of a taxable supply of goods or services to him by another taxable person; and
- (b) that document understates the tax chargeable on the supply,

the Commissioners may, by notice served on the recipient and on the supplier, elect that the amount of tax understated by the document shall be regarded for all purposes as tax due from the recipient and not from the supplier.

**PART III**

**INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX**

**CHAPTER I**

**GENERAL**

*Tax rates and personal reliefs*

**23 Charge and basic rate of income tax for 1988-89.**

Income tax shall be charged for the year 1988-89, and the basic rate of tax shall be 25 per cent.

**24 Higher and additional rates of income tax.**

- (1) The rate at which income tax is charged for the year 1988-89 in respect of so much of an individual’s total income as exceeds £19,300 shall be 40 per cent.
- (2) In accordance with subsection (1) above, section 1 of the Taxes Act 1988 shall be amended as follows—
  - (a) for paragraph (b) of subsection (2) there shall be substituted—

“(b) in respect of so much of an individual’s total income as exceeds £19,300, at such higher rate as Parliament may determine”
  - (b) in subsection (3) the words “and the” onwards shall cease to have effect;
  - (c) in subsection (4) for the words “each of the amounts” there shall be substituted the words “the amount”;

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- (d) in subsection (6) for the word “amounts” there shall be substituted the word “amount”;
- and section 1(4) (indexation) shall not apply for the year 1988-89.
- (3) In section 694 of the Taxes Act 1988 (which imposes a charge on trustees of maintenance funds for historic buildings in certain circumstances), in subsection (2), the words “at the rate of 30 per cent.” shall cease to have effect; and after that subsection there shall be inserted—
- “(2A) The rate at which tax is charged under this section shall be equivalent to the higher rate of income tax for the year of assessment during which the charge arises, reduced by the sum of the basic and additional rates for that year.”
- (4) In section 832(1) of the Taxes Act 1988, in the definition of “additional rate”, for the words “income tax for” onwards there shall be substituted the words “any year of assessment for which income tax is charged, means 10 per cent. or such other rate as Parliament may determine”.

## 25 Personal reliefs.

- (1) In section 257 of the Taxes Act 1988 (personal reliefs)—
- (a) in subsection (1)(a) (married allowance) for “£3,795” there shall be substituted “ £4,095 ”;
  - (b) in subsections (1)(b) (single allowance) and (6) (wife’s earned income relief) for “£2,425” there shall be substituted “ £2,605 ”;
  - (c) in subsection (2)(a) (married allowance: age 65 to 79) for “£4,675” there shall be substituted “ £5,035 ”;
  - (d) in subsection (2)(b) (single allowance: age 65 to 79) for “£2,960” there shall be substituted “ £3,180 ”;
  - (e) in subsection (3)(a) (married allowance: age 80 and over) for “£4,845” there shall be substituted “ £5,205 ”;
  - (f) in subsection (3)(b) (single allowance: age 80 and over) for “£3,070” there shall be substituted “ £3,310 ”;
  - (g) in subsection (5) (income limit for age allowance) for “£9,800” there shall be substituted “ £10,600 ”.
- (2) Section 257(9) of that Act (indexation) shall not apply for the year 1988-89.
- (3) Sections 258, 263 and 264 of that Act (housekeeper allowance, dependent relative allowance and son’s or daughter’s services allowance) shall not have effect for the year 1988-89 or any subsequent year of assessment.

## 26 Charge and rate of corporation tax for financial year 1988.

Corporation tax shall be charged for the financial year 1988 at the rate of 35 per cent.

## 27 Corporation tax: small companies.

- (1) For the financial year 1988 the small companies rate shall be 25 per cent.
- (2) For the financial year 1988 the fraction mentioned in section 13(2) of the Taxes Act 1988, and in section 95(2) of the <sup>M29</sup>Finance Act 1972, (marginal relief for small companies) shall be one fortieth.

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#### Marginal Citations

M29 1972 c. 41.

### 28 Deduction rate for sub-contractors in construction industry.

Section 559(4) of the Taxes Act 1988 (which requires deductions to be made from payments to certain sub-contractors in the construction industry) shall have effect in relation to payments made on or after 31st October 1988 with the substitution for the words “27 per cent.” of the words “25 per cent.”.

### 29 Life assurance premium relief.

(1) In sections 266(5)(a) and 274(3)(a) of the Taxes Act 1988, and in paragraph 3(3)(a) of Schedule 14 to that Act, (rate of relief on premiums on life policies etc.) for the words “15 per cent.” wherever they occur there shall be substituted the words “12.5 per cent.”.

(2) This section shall have effect on and after 6th April 1989.

### 30 Additional relief in respect of children.

(1) In section 259 of the Taxes Act 1988 (additional relief in respect of children), in subsection (2), for the words “and (4)” there shall be substituted the words “to (4A)”; and after subsection (4) there shall be inserted—

“(4A) Where—

(a) a man and a woman who are not married to each other live together as husband and wife for the whole or any part of a year of assessment, and

(b) apart from this subsection each of them would on making a claim be entitled to a deduction under subsection (2) above,

neither of them shall be entitled to such a deduction except in respect of the youngest of the children concerned (that is to say, the children in respect of whom either would otherwise be entitled to a deduction).”

(2) This section shall apply for the year 1989-90 and subsequent years of assessment.

### 31 Non-residents’ personal reliefs.

(1) For the year 1990-91 and subsequent years of assessment section 278 of the Taxes Act 1988 (which with certain exceptions denies relief under Chapter I of Part VII to non-residents) shall have effect with the following amendments.

(2) In subsection (2)(e) (exception for widows of Crown servants) after the word “husband” there shall be inserted the words “, or a widower whose late wife,”.

(3) After subsection (2) there shall be inserted—

“(2A) Notwithstanding subsection (2) above, no relief shall be given under section 257D in a case where the husband is not resident in the United Kingdom.”

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(4) Subsections (3) to (7) shall be omitted.

*Married couples*

**32 Abolition of aggregation of income.**

Section 279 of the Taxes Act 1988 (which treats the income of a woman living with her husband as his income for income tax purposes) shall not have effect for the year 1990-91 or any subsequent year of assessment.

**33 Personal allowance and married couple's allowance.**

The Taxes Act 1988 shall have effect for the year 1990-91 and subsequent years of assessment with the substitution of the following sections for section 257—

**“257 Personal allowance.**

- (1) The claimant shall be entitled to a deduction from his total income of £2,605.
- (2) If the claimant proves that he is at any time within the year of assessment of the age of 65 or upwards, he shall be entitled to a deduction from his total income of £3,180 (instead of the deduction provided for by subsection (1) above).
- (3) If the claimant proves that he is at any time within the year of assessment of the age of 80 or upwards, he shall be entitled to a deduction from his total income of £3,310 (instead of the deduction provided for by subsection (1) or (2) above).
- (4) For the purposes of subsections (2) and (3) above a person who would have been of or over a specified age within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.
- (5) In relation to a claimant whose total income for the year of assessment exceeds £10,600, subsections (2) and (3) above shall apply as if the amounts specified in them were reduced by two-thirds of the excess (but not so as to reduce those amounts below that specified in subsection (1) above).

**257A Married couple's allowance.**

- (1) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, he shall be entitled to a deduction from his total income of £1,490.
- (2) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, and that either of them is at any time within that year of the age of 65 or upwards, he shall be entitled to a deduction from his total income of £1,855 (instead of the deduction provided for by subsection (1) above).
- (3) If the claimant proves that for the whole or any part of the year of assessment he is a married man whose wife is living with him, and that either of them is at any time within that year of the age of 80 or upwards, he shall be entitled to a deduction from his total income of £1,895 (instead of the deduction provided for by subsection (1) or (2) above).



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- (4) For the purposes of subsections (2) and (3) above a person who would have been of or over a specified age within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.
- (5) In relation to a claimant whose total income for the year of assessment exceeds £10,600, subsections (2) and (3) above shall apply as if the amounts specified in them were reduced by—
  - (a) two-thirds of the excess, less
  - (b) any reduction made in his allowance under section 257 by virtue of subsection (5) of that section,(but not so as to reduce the amounts so specified below the amount specified in subsection (1) above).
- (6) A man shall not be entitled by virtue of this section to more than one deduction for any year of assessment; and in relation to a claim by a man who becomes married in the year of assessment and has not previously in the year been entitled to relief under this section, this section shall have effect as if the amounts specified in subsections (1) to (3) above were reduced by one twelfth for each month of the year ending before the date of the marriage.

In this subsection “month” means a month beginning with the 6th day of a month of the calendar year.

#### **257B Transfer of relief under section 257A.**

- (1) Where —
  - (a) a man is entitled to relief under section 257A, but
  - (b) the amount which he is entitled to deduct from his total income by virtue of that section exceeds what is left of his total income after all other deductions have been made from it,his wife shall be entitled to a deduction from her total income of an amount equal to the excess.
- (2) In determining for the purposes of subsection (1)(b) above the amount that is left of a person’s total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—
  - (a) on account of any payments of relevant loan interest which become due in that year and to which section 369 applies, or
  - (b) under section 289.
- (3) This section shall not apply for a year of assessment unless the claimant’s husband has given to the inspector written notice that it is to apply; and any such notice—
  - (a) shall be given not later than six years after the end of the year of assessment to which it relates,
  - (b) shall be in such form as the Board may determine, and
  - (c) shall be irrevocable.

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### **257C Indexation of amounts in sections 257 and 257A.**

- (1) If the retail prices index for the month of December preceding a year of assessment is higher than it was for the previous December, then, unless Parliament otherwise determines, sections 257 and 257A shall apply for that year as if for each amount specified in them as they applied for the previous year (whether by virtue of this section or otherwise) there were substituted an amount arrived at by increasing the amount for the previous year by the same percentage as the percentage increase in the retail prices index, and—
  - (a) if in the case of an amount specified in sections 257(5) and 257A(5) the result is not a multiple of £100, rounding it up to the nearest amount which is such a multiple;
  - (b) if in the case of any other amount the increase is not a multiple of £10, rounding the increase up to the nearest amount which is such a multiple.
- (2) Subsection (1) above shall not require any change to be made in the amounts deductible or repayable under section 203 between the beginning of a year of assessment and 5th May in that year.
- (3) The Treasury shall in each year of assessment make an order specifying the amounts which by virtue of subsection (1) above will be treated as specified for the following year of assessment in sections 257 and 257A.
- (4) This section shall have effect in relation to reliefs for the year 1990-91 (as well as for later years); and for that purpose it shall be assumed that sections 257 and 257A applied for the year 1989-90 as they apply, apart from this section, for the year 1990-91.

### **257D Transitional relief: husband with excess allowances.**

- (1) Where—
  - (a) a husband and wife are living together for the whole or any part of the year 1990-91 and section 279 (but not section 287) applied in relation to them for the whole or any part of the year 1989-90, and
  - (b) the deductions which the husband was entitled to make from his total income for the year 1989-90 under this Chapter exceed the aggregate mentioned in subsection (2) below,
 the wife shall be entitled to a deduction from her total income for the year 1990-91 of an amount equal to the excess.
- (2) The aggregate referred to in subsection (1) above is the aggregate of—
  - (a) the husband's total income for the year 1990-91, and
  - (b) the deductions which the wife is entitled to make from her total income for that year under this Chapter (apart from this section).
- (3) Where—
  - (a) a husband and wife are living together for the whole or any part of the year 1990-91 and for part of the year 1989-90 but section 279 did not apply in relation to them for any part of the year 1989-90, and
  - (b) the deductions which the husband was entitled to make from his total income for the year 1989-90 under this Chapter, apart from section 257(6), exceed his total income for the year 1990-91,

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then, subject to subsection (4) below, the wife shall be entitled to a deduction from her total income for the year 1990-91 of an amount equal to the excess.

- (4) If the deductions which the wife is entitled to make from her total income for the year 1990-91 under this Chapter (apart from this section) exceed the lesser of—
- (a) her total income for the year 1989-90, and
  - (b) the deductions which she was entitled to make from her total income for that year under this Chapter, apart from section 259, section 262 and section 280,

the deduction provided for by subsection (3) above shall be reduced by an amount equal to the excess.

- (5) Where—
- (a) a husband and wife are living together for the whole or any part of the year 1991-92 or any subsequent year of assessment (“the year in question”), and
  - (b) they were also living together throughout the immediately preceding year of assessment and the wife made a deduction from her total income for that year under this section, and
  - (c) the deductions which the wife is entitled to make from her total income under this Chapter (apart from this section) are either no greater for the year in question than for the immediately preceding year, or greater by a margin which does not exceed the deduction referred to in paragraph (b) above, and
  - (d) the deductions which the husband is entitled to make from his total income for the year in question under this Chapter, apart from section 257A and section 265, exceed his total income for that year,
- the wife shall be entitled to a deduction from her total income for that year.

- (6) The amount of that deduction shall be equal to—
- (a) the deduction referred to in subsection (5)(b) above, reduced where applicable by an amount equal to the margin referred to in subsection (5)(c), or
  - (b) the excess referred to in subsection (5)(d),
- whichever is less.

- (7) In determining for the purposes of subsection (5)(b) above whether the wife made a deduction from her total income for the immediately preceding year of assessment under this section, and the amount of any such deduction, it shall be assumed that a deduction under this section is made after all other deductions (except any deduction under section 289).

- (8) In determining for the purposes of this section a person’s total income for a year of assessment there shall be disregarded any deduction made—
- (a) on account of any payments of relevant loan interest which become due in that year and to which section 369 applies, or
  - (b) under this Chapter or under section 289;

and in determining for the purposes of subsection (1)(b) above the deductions which a man was entitled to make under this Chapter for the year 1989-90, any application under section 283 shall be disregarded.

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- (9) This section shall not apply for a year of assessment unless the claimant's husband has given to the inspector written notice that it is to apply; and any such notice—
- (a) shall be given not later than six years after the end of the year of assessment to which it relates,
  - (b) shall be in such form as the Board may determine, and
  - (c) shall be irrevocable.
- (10) A notice given under subsection (9) above in relation to a year of assessment shall have effect also as a notice under section 257B(3) (and, where it is relevant, under section 265(5)).

**257E Transitional relief: the elderly.**

- (1) This section shall apply in relation to a claimant for any year of assessment for the whole or any part of which he has his wife living with him if he proves—
- (a) that for the year 1989-90 he was entitled to relief by virtue of section 257(2)(a) of this Act (as it had effect for that year) and that his entitlement was due to her age and not to his (he being under the age of 65 throughout that year), or
  - (b) that for the year 1989-90 he was entitled to relief by virtue of section 257(3)(a) of this Act (as it had effect for that year) and that his entitlement was due to her age and not to his (he being under the age of 80 throughout that year),
- and, in either case, that the amount of that relief exceeded the aggregate amount of any relief to which he would be entitled for the year 1990-91 under sections 257 and 257A (apart from this section).
- (2) Where this section applies, section 257 shall have effect—
- (a) in a case within subsection (1)(a) above, as if for the amount specified in subsection (1) of that section there were substituted £3,180, and
  - (b) in a case within subsection (1)(b) above, as if for the amounts specified in subsections (1) and (2) of that section there were substituted £3,310.
- (3) Section 257(5) shall have effect in relation to section 257(1) as modified by this section as it has effect in relation to section 257(2) and (3); and in all cases the reference in section 257(5) to the amount specified in section 257(1) is a reference to the amount specified apart from this section.
- (4) The references in section 257C to the amounts specified in section 257 are references to the amounts specified apart from this section.
- (5) In determining for the purposes of this section the amount of any reliefs to which a person was entitled for the year 1989-90, any application under section 283 shall be disregarded.

**257F Transitional relief: separated couples.**

If the claimant proves—

- (a) that he and his wife ceased to live together before 6th April 1990 but that ever since they ceased to live together they have continued to be married to one another and she has been wholly maintained by him, and

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- (b) that he is not entitled to make any deduction in respect of the sums paid for her maintenance in computing for income tax purposes the amount of his income for the year to which the claim relates, and
  - (c) that he was entitled to a deduction for the year 1989-90 by virtue of section 257(1)(a) of this Act (as it had effect for that year) and, if the claim relates to a year later than 1990-91, that he has been entitled by virtue of this section to a deduction under section 257A for each intervening year,
- sections 257A and 257E (but not section 257B or section 257D) shall have effect for the year to which the claim relates as if his wife were living with him.”

### **34 Jointly held property.**

The Taxes Act 1988 shall have effect for the year 1990-91 and subsequent years of assessment with the insertion of the following sections after section 282—

#### **“282A Jointly held property.**

- (1) Subject to the following provisions of this section, income arising from property held in the names of a husband and his wife shall for the purposes of income tax be regarded as income to which they are beneficially entitled in equal shares.
- (2) Subsection (1) above shall not apply to income to which neither the husband nor the wife is beneficially entitled.
- (3) Subsection (1) above shall not apply to income—
  - (a) to which either the husband or the wife is beneficially entitled to the exclusion of the other, or
  - (b) to which they are beneficially entitled in unequal shares, if a declaration relating to it has effect under section 282B.
- (4) Subsection (1) above shall not apply to—
  - (a) earned income, or
  - (b) income which is not earned income but to which section 111 applies.
- (5) Subsection (1) above shall not apply to income to which the husband or the wife is beneficially entitled if or to the extent that it is treated by virtue of any other provision of the Income Tax Acts as the income of the other of them or of a third party.
- (6) References in this section to a husband and his wife are references to a husband and wife living together.

#### **282B Jointly held property: declarations.**

- (1) The declaration referred to in section 282A (3) is a declaration by both the husband and the wife of their beneficial interests in—
  - (a) the income to which the declaration relates, and
  - (b) the property from which that income arises.

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- (2) Subject to the following subsections, a declaration shall have effect under this section in relation to income arising on or after the date of the declaration; but a declaration made before 6th June 1990 shall also have effect in relation to income arising before that date.
- (3) A declaration shall not have effect under this section unless notice of it is given to the inspector, in such form and manner as the Board may prescribe, within the period of 60 days beginning with the date of the declaration.
- (4) A declaration shall not have effect under this section in relation to income from property if the beneficial interests of the husband and the wife in the property itself do not correspond to their beneficial interests in the income.
- (5) A declaration having effect under this section shall continue to have effect unless and until the beneficial interests of the husband and wife in either the income to which it relates, or the property from which the income arises, cease to accord with the declaration.”

### **35 Minor and consequential provisions.**

Schedule 3 to this Act (which makes provision consequential on sections 32 and 33 above and other minor amendments relating to the treatment for income tax purposes of husbands, wives, widowers and widows) shall have effect.

#### *Annual payments*

### **36 Annual payments.**

- (1) The following sections shall be inserted at the beginning of Part IX of the Taxes Act 1988—

#### **“347A General rule.**

- (1) A payment to which this section applies shall not be a charge on the income of the person liable to make it, and accordingly—
  - (a) his income shall be computed without any deduction being made on account of the payment, and
  - (b) the payment shall not form part of the income of the person to whom it is made or of any other person.
- (2) This section applies to any annual payment made by an individual which would otherwise be within the charge to tax under Case III of Schedule D except—
  - (a) a payment of interest;
  - (b) a covenanted payment to charity (within the meaning given by section 660(3));
  - (c) a payment made for bona fide commercial reasons in connection with the individual’s trade, profession or vocation; and
  - (d) a payment to which section 125(1) applies.
- (3) This section applies to a payment made by personal representatives (within the meaning given in section 701(4)) where—

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- (a) the deceased would have been liable to make the payment if he had not died, and
  - (b) this section would have applied to the payment if he had made it.
- (4) A maintenance payment arising outside the United Kingdom shall not be within the charge to tax under Case V of Schedule D if, because of this section, it would not have been within the charge to tax under Case III had it arisen in the United Kingdom; and for this purpose “maintenance payment” means a periodical payment (not being an instalment of a lump sum) which satisfies the conditions set out in paragraphs (a) and (b) of section 347B(5).
- (5) No deduction shall be made under section 65(1)(b) on account of an annuity or other annual payment which would not have been within the charge to tax under Case III of Schedule D if it had arisen in the United Kingdom.
- (6) References in subsection (2) above to an individual include references to a Scottish partnership in which at least one partner is an individual.

#### **347B Qualifying maintenance payments.**

- (1) In this section “qualifying maintenance payment” means a periodical payment which—
- (a) is made under an order made by a court in the United Kingdom, or under a written agreement the proper law of which is the law of a part of the United Kingdom,
  - (b) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—
    - (i) to or for the benefit of the other party and for the maintenance of the other party, or
    - (ii) to the other party for the maintenance by the other party of any child of the family,
  - (c) is due at a time when—
    - (i) the two parties are not a married couple living together, and
    - (ii) the party to whom or for whose benefit the payment is made has not remarried, and
  - (d) is not a payment in respect of which relief from tax is available to the person making the payment under any provision of the Income Tax Acts other than this section.
- (2) Notwithstanding section 347A(1)(a) but subject to subsections (3) and (4) below, a person making a claim for the purpose shall be entitled, in computing his total income for a year of assessment, to deduct an amount equal to the aggregate amount of any qualifying maintenance payments made by him which fall due in that year.
- (3) The amount which may be deducted under this section by a person in computing his total income for a year of assessment shall not exceed the amount of the difference between the higher (married person’s) relief and the lower (single person’s) relief under subsection (1) of section 257 as it applies for the year to a person not falling within subsection (2) or (3) of that section.
- (4) Where qualifying maintenance payments falling due in a year of assessment are made by a person who also makes other maintenance payments attracting

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relief for that year, subsection (3) above shall apply as if the limit imposed by it were reduced by an amount equal to the aggregate amount of those other payments.

(5) The reference in subsection (4) above to other maintenance payments attracting relief for a year is a reference to periodical payments which—

- (a) are made under an order made by a court (whether in the United Kingdom or elsewhere) or under a written or oral agreement, and
- (b) are made by a person—
  - (i) as one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to the marriage and for the maintenance of the other party, or
  - (ii) to any person under 21 years of age for his own benefit, maintenance or education, or
  - (iii) to any person for the benefit, maintenance or education of a person under 21 years of age,

and in respect of which the person making them is entitled otherwise than under this section to make a deduction in computing his income for the year.

(6) The reference in subsection (1) above to a married couple living together shall be construed in accordance with section 282(1), but section 282(2) shall not apply for the purposes of this section.

(7) In this section—

“child of the family”, in relation to the parties to a marriage, means a person under 21 years of age—

- (a) who is a child of both those parties, or
- (b) who (not being a person who has been boarded out with them by a public authority or voluntary organisation) has been treated by both of them as a child of their family;

“periodical payment” does not include an instalment of a lump sum.”

(2) The following sections shall be inserted at the beginning of Part II of the Taxes Act 1970—

**“51A General rule.**

(1) A payment to which this section applies shall not be a charge on the income of the person liable to make it, and accordingly—

- (a) his income shall be computed without any deduction being made on account of the payment, and
- (b) the payment shall not form part of the income of the person to whom it is made or of any other person.

(2) This section applies to any annual payment made by an individual which would otherwise be within the charge to tax under Case III of Schedule D except—

- (a) a payment of interest;
- (b) a covenanted payment to charity (within the meaning given by section 434(2) below);



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- (c) a payment made for bona fide commercial reasons in connection with the individual's trade, profession or vocation; and
  - (d) a payment to which section 48(1) of the Finance Act 1977 applies.
- (3) This section applies to a payment made by personal representatives (within the meaning given in section 432(4) below) where—
  - (a) the deceased would have been liable to make the payment if he had not died, and
  - (b) this section would have applied to the payment if he had made it.
- (4) A maintenance payment arising outside the United Kingdom shall not be within the charge to tax under Case V of Schedule D if, because of this section, it would not have been within the charge to tax under Case III had it arisen in the United Kingdom; and for this purpose “maintenance payment” means a periodical payment (not being an instalment of a lump sum) which satisfies the conditions set out in paragraphs (a) and (b) of section 51B(5) below.
- (5) No deduction shall be made under section 122(1)(b) below on account of an annuity or other annual payment which would not have been within the charge to tax under Case III of Schedule D if it had arisen in the United Kingdom.
- (6) References in subsection (2) above to an individual include references to a Scottish partnership in which at least one partner is an individual.

#### **51B Qualifying maintenance payments.**

- (1) In this section “qualifying maintenance payment” means a periodical payment which—
  - (a) is made under an order made by a court in the United Kingdom, or under a written agreement the proper law of which is the law of a part of the United Kingdom,
  - (b) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—
    - (i) to or for the benefit of the other party and for the maintenance of the other party, or
    - (ii) to the other party for the maintenance by the other party of any child of the family,
  - (c) is due at a time when—
    - (i) the two parties are not a married couple living together, and
    - (ii) the party to whom or for whose benefit the payment is made has not remarried, and
  - (d) is not a payment in respect of which relief from tax is available to the person making the payment under any provision of the Income Tax Acts other than this section.
- (2) Notwithstanding section 51A(1)(a) above but subject to subsections (3) and (4) below, a person making a claim for the purpose shall be entitled, in computing his total income for the year 1987-88, to deduct an amount equal to the aggregate amount of any qualifying maintenance payments made by him which fall due in that year.
- (3) The amount which may be deducted under this section by a person in computing his total income for the year 1987-88 shall not exceed £1,370.

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- (4) Where qualifying maintenance payments falling due in the year 1987-88 are made by a person who also makes other maintenance payments attracting relief for that year, subsection (3) above shall apply as if the limit imposed by it were reduced by an amount equal to the aggregate amount of those other payments.
- (5) The reference in subsection (4) above to other maintenance payments attracting relief for the year 1987-88 is a reference to periodical payments which—
- (a) are made under an order made by a court (whether in the United Kingdom or elsewhere) or under a written or oral agreement, and
  - (b) are made by a person—
    - (i) as one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to the marriage and for the maintenance of the other party, or
    - (ii) to any person under 21 years of age for his own benefit, maintenance or education, or
    - (iii) to any person for the benefit, maintenance or education of a person under 21 years of age,
 and in respect of which the person making them is entitled otherwise than under this section to make a deduction in computing his income for the year.
- (6) The reference in subsection (1) above to a married couple living together shall be construed in accordance with section 42(1) above, but section 42(2) above shall not apply for the purposes of this section.
- (7) In this section—
- “child of the family”, in relation to the parties to a marriage, means a person under 21 years of age—
- (a) who is a child of both those parties, or
  - (b) who (not being a person who has been boarded out with them by a public authority or voluntary organisation) has been treated by both of them as a child of their family;
- “periodical payment” does not include an instalment of a lump sum.”
- (3) This section shall have effect in relation to any payment falling due on or after 15th March 1988 unless it is made in pursuance of an existing obligation.
- (4) In subsection (3) above “existing obligation” means a binding obligation—
- (a) under an order made by a court (whether in the United Kingdom or elsewhere) before 15th March 1988, or before the end of June 1988 on an application made on or before 15th March 1988;
  - (b) under a deed executed or written agreement made before 15th March 1988 and received by an inspector before the end of June 1988;
  - (c) under an oral agreement made before 15th March 1988, written particulars of which have been received by an inspector before the end of June 1988; or
  - (d) under an order made by a court (whether in the United Kingdom or elsewhere) on or after 15th March 1988, or under a written agreement made on or after that date, where the order or agreement replaces, varies or supplements an order or agreement within this subsection;

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but subject to subsection (5) below.

- (5) An obligation within subsection (4)(d) above is an existing obligation only if—
- (a) it is an obligation to make periodical payments (not being instalments of a lump sum) which are made by a person—
    - (i) as one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to the marriage and for the maintenance of the other party, or
    - (ii) to any person under 21 years of age for his own benefit, maintenance or education, or
    - (iii) to any person for the benefit, maintenance or education of a person under 21 years of age, and
  - (b) the order or agreement replaced, varied or supplemented provided for such payments to be made for the benefit, maintenance or, as the case may be, education of the same person.
- (6) Section 351 of the Taxes Act 1988 and section 65 of the Taxes Act 1970 shall not apply to any payment in relation to which this section has effect.

### **37 Maintenance payments under existing obligations:**

- (1) This section applies to any annual payment due in the <sup>M30</sup>year 1988–89 which—
- (a) is made in pursuance of an existing obligation under an order made by a court (whether in the United Kingdom or elsewhere) or under a written or oral agreement,
  - (b) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—
    - (i) to or for the benefit of the other party and for the maintenance of the other party, or
    - (ii) to the other party for the maintenance by the other party of any child of the family,
  - (c) is due at a time when—
    - (i) the two parties are not a married couple living together, and
    - (ii) the party to whom or for whose benefit the payments are made has not remarried, and
  - (d) is within the charge to tax under Case III or Case V of Schedule D, and is not by virtue of Part XV of the Taxes Act 1988 treated for any purpose as the income of the person making it.
- (2) On making a claim for the purpose a person chargeable to tax in respect of payments to which this section applies shall be entitled, in computing his total income for the year 1988–89, to deduct an amount equal to the aggregate amount of the payments, or £1,490, whichever is less.

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### **38 Maintenance payments under existing obligations:**

- (1) This section applies to any annual payment due in the <sup>M31</sup>year 1989-90 or any subsequent year of assessment which—
  - (a) is made in pursuance of an existing obligation under an order made by a court (whether in the United Kingdom or elsewhere) or under a written or oral agreement,
  - (b) is made by an individual—
    - (i) as one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit of the other party to the marriage and for the maintenance of the other party, or
    - (ii) to any person under 21 years of age for his own benefit, maintenance or education, or
    - (iii) to any person for the benefit, maintenance or education of a person under 21 years of age, and
  - (c) is (apart from this section) within the charge to tax under Case III or Case V of Schedule D, and is not by virtue of Part XV of the Taxes Act 1988 treated for any purpose as the income of the person making it.
- (2) A payment to which this section applies shall not be a charge on the income of the person liable to make it, but—
  - (a) that person shall be entitled, on making a claim for the purpose, to make a deduction of an amount determined in accordance with subsection (3) below in computing his total income for the year of assessment in which the payment falls due, and
  - (b) the payment shall form part of the income of the recipient, but subject to subsections (4) and (5) below.
- (3) The amount which a person may deduct under subsection (2)(a) above in computing his total income for a year of assessment shall be equal to the aggregate amount of the payments made by him which fall due in that year and to which this section applies, except that it shall not in any event exceed the aggregate amount of any payments due in the year 1988-89—
  - (a) which satisfy the conditions in paragraphs (a), (b) and (c) of subsection (1) above, and
  - (b) in respect of which he was entitled to make a deduction in computing his income for that year.
- (4) The amount which, by virtue of subsection (2)(b) above, is treated as forming part of a person's income for a year of assessment by reason of payments made by another person ("the payer") shall not exceed the aggregate amount of any payments made by the payer which—
  - (a) formed part of the same recipient's income for the year 1988-89, and
  - (b) satisfy the conditions in paragraphs (a), (b) and (c) of subsection (1) above.
- (5) The amount which, by virtue of subsection (2)(b) above, would apart from this subsection be treated as forming part of a person's income for a year of assessment by reason of payments within subsection (6) below shall, if he makes a claim for the purpose, be reduced by the amount of the difference between the higher (married person's) relief and the lower (single person's) relief under subsection (1) of section 257 of the Taxes Act 1988 as it applies for that year to a person not falling within subsection (2) or (3) of that section.

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- (6) The payments referred to in subsection (5) above are payments which—
- (a) are made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—
    - (i) to or for the benefit of the other party and for the maintenance of the other party, or
    - (ii) to the other party for the maintenance by the other party of any child of the family, and
  - (b) are due at a time when—
    - (i) the two parties are not a married couple living together, and
    - (ii) the party to whom or for whose benefit the payments are made has not remarried.
- (7) A payment to which this section applies shall be made without deduction of income tax.
- (8) A payment to which this section applies shall be within the charge to tax under Case III or (if it arises outside the United Kingdom) Case V of Schedule D; and tax chargeable under Case III shall, notwithstanding anything in sections 64 to 67 of the Taxes Act 1988, be computed on the payments falling due in the year of assessment, so far as paid in that or any other year.
- (9) No deduction shall be made under section 65(1)(b) of the Taxes Act 1988 on account of a payment to which this section applies.

**Marginal Citations**

**M31** 1989–90 onwards.

**39 Maintenance payments under existing obligations: election for new rules.**

- (1) If an election is duly made for the purpose by any person, section 36 above shall have effect in relation to all payments made by him—
- (a) to which section 37 or section 38 above would apply apart from the election, and
  - (b) which fall due in a year of assessment for which the election has effect; and accordingly sections 37 and 38 shall not apply to the payments.
- (2) An election under subsection (1) above—
- (a) shall be made in such form and manner as the Board may prescribe,
  - (b) shall be made not later than twelve months after the end of the first year of assessment for which it is to have effect,
  - (c) shall have effect for any subsequent year of assessment, and
  - (d) shall be irrevocable.
- (3) A person making an election under subsection (1) above shall, before the end of the period of 30 days beginning with the day on which it is made, give notice of it to every recipient of a payment affected by the election.

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#### 40 Provisions supplementary to sections 37 to 39.

(1) In sections 37 to 39 above—

“child of the family”, in relation to the parties to a marriage, means a person under 21 years of age—

- (a) who is a child of both those parties, or
- (b) who (not being a person who has been boarded out with them by a public authority or voluntary organisation) has been treated by both of them as a child of their family;

“existing obligation” has the same meaning as in section 36(3) above.

(2) The references in sections 38(2)(b) and (4) and 39(3) above to the recipient of a payment are, in a case of the kind described in sections 37(1)(b)(i) and 38(1)(b)(i), references to the other party there mentioned.

[<sup>F4</sup>(3) The references in sections 37 and 38 above to a married couple living together shall be construed in accordance with section 282(1) of the Taxes Act 1988, but section 282(2) shall not apply for the purposes of those sections.]

#### Textual Amendments

**F4** S. 40(3) repealed (for 1990-91 and subsequent years of assessment) by Finance Act 1988 (c. 39, SIF 63:2), s. 148, Sch. 14 Pt. VIII, Note 6.

#### *Relief for interest*

#### 41 Qualifying maximum for loans.

For the year 1988-89 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

#### 42 Home loans: restriction of relief.

(1) The following sections shall be inserted after section 356 of the Taxes Act 1988—

##### **“356A Limit on relief for home loans: residence basis.**

- (1) Where all the qualifying interest payable for any period in relation to a residence is payable by one person, it shall be eligible for relief only to the extent that the amount on which it is payable does not exceed the qualifying maximum during the period.
- (2) Where qualifying interest is payable for any period in relation to a residence by more than one person, the interest paid by each of them shall be eligible for relief only to the extent that the amount on which it is payable by him does not exceed the sharer’s limit for the period in his case.
- (3) Subject to the following provisions of this section and section 356B, in this section and section 356B “the sharer’s limit”, in relation to a person by whom qualifying interest is payable for a period in relation to a residence, means the amount arrived at by dividing the amount of the qualifying maximum during

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the period by the number of persons by whom qualifying interest is payable for the period in relation to the residence.

- (4) Subsection (5) below applies where—
- (a) in the case of any person by whom qualifying interest is payable for any period in relation to a residence the sharer's limit for the period exceeds the amount on which the interest is payable by him, and
  - (b) the amount which (apart from that subsection) would be the sharer's limit for the period in the case of any other person by whom qualifying interest is payable for the period in relation to the residence falls short of the amount on which qualifying interest is so payable by him.
- (5) Where this subsection applies—
- (a) the sharer's limit for the period in the case of the person mentioned in subsection (4)(a) above shall be reduced by the amount of the excess, and
  - (b) the sharer's limit for the period in the case of any person such as is mentioned in subsection (4)(b) above shall be increased in accordance with subsections (6) to (8) below.
- (6) Where there is only one other person by whom qualifying interest is payable for the period in relation to the residence, the sharer's limit in his case shall be increased by the amount of the excess.
- (7) Where there is more than one other person by whom qualifying interest is payable for the period in relation to the residence, the sharer's limit in the case of each of them shall be increased by such part of the excess as bears to the whole of it the same proportion as any shortfall in his case bears to the aggregate of any shortfalls in the case of each of them.
- (8) In subsection (7) above "shortfall" means the amount by which what would be the sharer's limit in the case of a person (apart from subsection (5) above) falls short of the amount on which qualifying interest is payable by him.

### **356B Residence basis: married couples.**

- (1) Subject to subsections (2) and (4) below, qualifying interest payable or paid by a married woman who is not separated from her husband shall be treated for the purposes of sections 353 to 356A and 369 to 379 as payable or paid by her husband (and not by her).
- (2) Where—
- (a) qualifying interest is payable, or treated by subsection (1) above as payable, for a period in relation to a residence by a married man who is not separated from his wife, and
  - (b) qualifying interest is also payable for the period in relation to the residence by one or more persons other than the man and his wife,
- then for the purposes of section 356A(2) and (3) qualifying interest shall be treated as payable by the wife for the period in relation to the residence (whether or not it actually is).
- (3) The application of subsection (2) above in the case of a husband and wife shall not give rise to a separate sharer's limit for the period in question in the case of the wife; but the limit arrived at under subsection (3) of section 356A for

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the period in the case of the husband shall be increased by the amount which (apart from this subsection) would be the limit arrived at under that subsection in the case of the wife.

- (4) Where an application under section 283 or an election under section 287 is in force in relation to a husband and wife for a year of assessment, subsections (1) to (3) above shall not apply in relation to them for the year but they may jointly elect—
- (a) that qualifying interest payable or paid by one of them for the year (or a period within the year), or such part of that interest as may be specified in the election, shall be treated for the purposes of sections 353 to 356A and 369 to 379 (and section 287(7)) as payable or paid by the other, and
  - (b) that the sharer's limit under section 356A for the year (or period) in the case of one of them shall be reduced by such amount as may be specified in the election and the sharer's limit under that section for the year (or period) in the case of the other shall be correspondingly increased.
- (5) An election under subsection (4) above—
- (a) shall be made before the end of the period of twelve months beginning with the end of the first year of assessment for which it is made or such longer period as the Board may in any particular case allow,
  - (b) shall, subject to subsection (6) below, have effect if made for the year 1988-89 not only for that year but also for the year 1989-90, and
  - (c) shall be in such form, and be made in such manner, as the Board may prescribe.
- (6) Where a husband and wife have made an election under subsection (4) above for the year 1988-89 they may give, for the year 1989-90, a notice to withdraw that election; and, if they do so, the election shall not have effect for the year 1989-90.
- (7) A notice of withdrawal under subsection (6) above—
- (a) shall be in such form, and be given in such manner, as the Board may prescribe,
  - (b) shall not be given after 5th April 1991 or such later date as the Board may in any particular case allow, and
  - (c) shall not prejudice the making of a fresh election for 1989-90.
- (8) Where—
- (a) a husband and wife are not separated,
  - (b) the husband pays interest in relation to a residence used or to be used as his only or main residence, and
  - (c) his wife pays interest in relation to some other residence used or to be used as her only or main residence,

the residence which was purchased first shall be treated for the purposes of sections 355(1)(a) and 356 as used or to be used as the only or main residence of both of them and the other residence shall be treated as used or to be used as the only or main residence of neither.



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### **356C Payments to which sections 356A and 356B apply.**

- (1) Subject to subsection (2) below, sections 356A and 356B shall have effect with respect to payments of qualifying interest made on or after 1st August 1988.
- (2) Subject to subsection (5) below, those sections shall not have effect with respect to a payment of qualifying interest made by a person in relation to a residence if—
  - (a) the payment is made under a loan made before 1st August 1988,
  - (b) qualifying interest was payable in relation to the residence for 1st August 1988 by someone other than the person making the payment or his spouse,
  - (c) qualifying interest has been payable in relation to the residence by the person making the payment or his spouse throughout the time beginning with 1st August 1988 and ending with the date of the payment, and
  - (d) someone other than the person making the payment or his spouse owns an estate or interest or property in the residence at each point during that time and at each such point at least one such person is a person by whom qualifying interest is payable in relation to the residence at some point during that time.
- (3) For the purposes of subsection (2) above a loan made on or after 1st August 1988 shall be treated as made before that date if it is proved by written evidence—
  - (a) that the loan was made in pursuance of an offer made before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, and
  - (b) that the loan was used to defray money applied in pursuance of a binding contract entered into before that date;and where a payment is made under such a loan the references in subsection (2) above to 1st August 1988 shall be treated as references to the first day for which qualifying interest is payable in relation to the residence under the loan (or where there is more than one such loan the latest such day).
- (4) Subject to subsection (5) below, where by virtue of subsection (2) above sections 356A and 356B do not have effect with respect to payments of qualifying interest made by a person for any period in relation to a residence under one loan those sections shall not have effect with respect to payments of qualifying interest for that period in relation to the residence made by that person or his spouse under any other loan.
- (5) Where all the persons by whom qualifying interest is payable in relation to a residence have made a joint election for the purpose, sections 356A and 356B shall have effect with respect to all payments of qualifying interest made by any person in relation to the residence notwithstanding that they would otherwise be payments with respect to which those sections would not have effect.
- (6) An election under subsection (5) above—

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- (a) shall have effect for the period in which it is made and subsequent periods,
  - (b) shall be irrevocable, and
  - (c) shall be in such form, and be made in such manner, as the Board may prescribe.
- (7) Sections 356A and 356B shall not have effect with respect to payments of qualifying interest if the interest is qualifying interest only by reason of its being paid in relation to a residence used or to be used as the only or main residence of a dependent relative or former or separated spouse of the person by whom the payment is made.
- (8) In this section references to a spouse do not include references to a separated spouse.

#### **356D Provisions supplementary to sections 356A to 356C.**

- (1) In sections 356A to 356C and this section “qualifying interest” means interest which (apart from those sections or section 357) is eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).
- (2) In sections 356A to 356C and this section “residence” means a building, or part of a building, occupied or intended to be occupied as a separate residence, or a caravan or house-boat; but a building, or part of a building, which is designed for permanent use as a single residence shall be treated as a single residence notwithstanding that it is temporarily divided into two or more parts which are occupied or intended to be occupied as separate residences.
- (3) In sections 356A to 356C and this section “period”, with respect to qualifying interest payable by a person in relation to a residence, means a period commencing with—
- (a) any day which is the first day for which qualifying interest is payable in relation to the residence by that or any other person (whether or not qualifying interest was payable by any person in relation to the residence for any earlier day),
  - (b) any day immediately following a day which is the last day for which qualifying interest is payable in relation to the residence by any other person (whether or not qualifying interest is payable by any person in relation to the residence for any later day), or
  - (c) the first day of a year of assessment,
- and ending with either the day immediately preceding the next day such as is mentioned in paragraph (a), (b) or (c) above or (if sooner) the day which is the last day for which qualifying interest is payable in relation to the residence by that person.
- (4) In section 356A references to the qualifying maximum during a period are references to the qualifying maximum for the year of assessment in which the period falls.
- (5) Where because of section 356A the full amount of qualifying interest paid by a person for a period is not eligible for relief, the part of that interest that is eligible for relief shall be such as bears to the whole of it the same proportion as the part of the amount on which qualifying interest is payable by him for

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the period that does not exceed the limit under that section in his case bears to the whole of that amount.

- (6) Where a person pays qualifying interest on more than one loan, the limit under section 356A in his case shall have effect in relation to qualifying interest paid on a later loan as if that loan were reduced by the amount of any earlier loan; and if that amount is equal to or exceeds the limit, none of the interest paid on the later loan is eligible for relief.
  - (7) For the purposes of subsection (6) above, where interest is paid on more than one loan made simultaneously to one person it shall be treated as paid on one loan.
  - (8) Subject to section 356B, where a loan is made jointly to more than one person by whom qualifying interest is payable in relation to a residence under the loan, the amount on which qualifying interest is payable in relation to the residence under the loan by each of the persons shall be treated for the purposes of section 356A as being such amount as is produced by dividing the whole of the amount on which qualifying interest is payable in relation to the residence under the loan by the number of persons by whom qualifying interest is so payable.
  - (9) Where section 354 continues to apply to a loan by virtue of section 354(5)(a), then sections 356A to 356C and this section shall also continue to have effect as if section 354 applied to it by virtue of section 355(1)(a).
  - (10) In determining whether the amount on which interest is payable exceeds any limit under section 356A, no account shall be taken of so much (if any) of that amount as consists of interest which has been added to capital and which does not exceed £1,000.”
- (2) In section 357 of the Taxes Act 1988 (limit on interest relief for home loans where residence basis does not apply)—
- (a) in subsection (1)—
    - (i) for the word “Interest” there shall be substituted the words “Subject to subsection (1A) below, where section 356A does not have effect with respect to a payment of interest because of section 356C(2) or (7) and the payment is of interest”, and
    - (ii) after “356(1)” there shall be inserted the words “the payment of interest”, and
  - (b) the following subsections shall be inserted after that subsection—
    - “(1A) Where section 356A does not have effect with respect to a payment of interest made by a person in relation to land, or a caravan or house-boat, used or to be used as his only or main residence because of section 356C(2), subsection (1) above shall have effect with respect to the payment of interest as if the reference to the qualifying maximum for the year of assessment were a reference to the amount specified in subsection (1B) below.
    - (1B) The amount referred to in subsection (1A) above is the lesser of £30,000 and the amount on which interest was payable by the person in relation to the land, caravan or house-boat immediately before 1st August 1988.

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(1C) Where subsection (2) of section 356C applies in the case of a person by virtue of subsection (3) of that section, for the purposes of subsection (1B) above the amount on which interest is payable by him under the loan referred to in section 356C(3) for the first day for which interest is so payable shall be treated as the amount on which interest is payable by him under the loan immediately before 1st August 1988.”

(3) In the Taxes Act 1988—

- (a) in section 355(1) (requirement that interest be payable in relation to only or main residence of payer), before “357” there shall be inserted the words “356A or”,
- (b) in section 367(5) (meaning of “qualifying maximum”), for “357(1)” there shall be substituted “356A to 357”,
- (c) in section 370(2)(b) (MIRAS: meaning of “relevant loan interest”), before “357” there shall be inserted “356A,”, and
- (d) in section 373 (MIRAS: large loans and joint borrowers)—
  - (i) in subsection (1), before “357(1)” there shall be inserted “356A, section”,
  - (ii) in subsection (3), after the word “applies” there shall be inserted the words “section 356D(6) or”, and
  - (iii) in subsection (4), after the words “by virtue of” there shall be inserted the words “section 356D(7) or”.

(4) This section shall come into force on 1st August 1988.

**Modifications etc. (not altering text)**

- C2** S. 42 applied (31.7.1998 with effect as mentioned in s. 38 of 1998 c. 36) by 1988 c. 1, s. 21B (as substituted by 1998 c. 36, s. 38, Sch. 5 Pt. I paras. 4, 73, 76)

**43 Home improvement loans.**

(1) In relation to payments of interest made on or after 6th April 1988 section 355 of the Taxes Act 1988 (limitations on relief for loans for purchase or improvement of land etc.) shall have effect with the insertion of the following subsections after subsection (2)—

“(2A) Section 354 shall not apply by virtue of subsection (1)(a) above where the interest is paid on a home improvement loan unless the loan was made before 6th April 1988.

(2B) In subsection (2A) above “home improvement loan” means—

- (a) a loan to defray money applied in improving or developing land or buildings on land, otherwise than by the erection of a new building (which is not part of an existing residence) on land which immediately before the improvement or development began had no building on it, or
- (b) a loan replacing (whether directly or indirectly) a loan within paragraph (a) above.

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- (2C) Where it is proved by written evidence that a loan made on or after 6th April 1988 was made in pursuance of an offer made by the lender before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, the loan shall be deemed for the purposes of subsection (2A) above to have been made before that date.”
- (2) In relation to payments of interest made on or after 6th April 1988 section 356 of the Taxes Act 1988 (job-related accommodation) shall have effect with the insertion of the following subsection after subsection (1)—
- “(1A) Subsection (1) above shall not apply where the interest is paid on a home improvement loan (as defined in section 355(2B)) unless the loan was made before 6th April 1988; and section 355(2C) shall have effect for the purposes of this subsection as for those of section 355(2A).”
- (3) Interest paid by a housing association on a home improvement loan made on or after 6th April 1988 shall not be relevant loan interest for the purposes of Part IX of the Taxes Act 1988; and for the purposes of this subsection—
- (a) “housing association” means a housing association for the time being approved for the purposes of section 488 of that Act or a self-build society for the time being approved for the purposes of section 489,
- (b) “home improvement loan” has the same meaning as in subsection (2B) of section 355 of that Act, and
- (c) subsection (2C) of that section shall have effect as it does for the purposes of subsection (2A) of that section.

#### **44 Loans for residence of dependent relative etc.**

- (1) In sections 355(1)(a) and 357(2)(a) of the Taxes Act 1988 the words “or of a dependent relative or former or separated spouse of his,” shall not have effect in relation to payments of interest made on or after 6th April 1988.
- (2) Subsection (1) above shall not apply where the interest is paid on a loan made before 6th April 1988 if interest paid on it at a relevant time was eligible for relief under section 353 of the Taxes Act 1988 only because the land, caravan or house-boat concerned was used as the only or main residence of the same dependent relative or former or separated spouse.
- (3) In subsection (2) above “relevant time” means—
- (a) the last time when interest was paid on the loan before 6th April 1988, or
- (b) if no interest was paid on it before that date, any time within the period of 12 months (or any longer period substituted in relation to the case under section 355(2) of the Taxes Act 1988) after the date on which the loan was made;
- but paragraph (b) above shall not apply if at any time after the date on which the loan was made and before the date on which the land, caravan or house-boat was first used as mentioned in subsection (2) above, the land, caravan or house-boat was used for any other purpose.
- (4) In section 358(4)(a) of the Taxes Act 1988 (relief where borrower deceased) the words “or of any dependent relative of the deceased” shall not have effect in relation to payments of interest made on or after 6th April 1988 unless—
- (a) the deceased died before that date, and

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- (b) the land, caravan or house-boat was used as the only or main residence of the dependent relative before that date.
- (5) Where it is proved by written evidence that a loan made on or after 6th April 1988 was made in pursuance of an offer made by the lender before that date and that the offer either was in writing or was evidenced by a note or memorandum made by the lender before that date, the loan shall be deemed for the purposes of this section to have been made before that date.
- (6) Interest paid by a housing association shall not be relevant loan interest for the purposes of Part IX of the Taxes Act 1988 where by virtue of this section it would not be relevant loan interest if paid by a member of the association; and in this subsection “housing association” means a housing association for the time being approved for the purposes of section 488 of that Act or a self-build society for the time being approved for the purposes of section 489.

**Modifications etc. (not altering text)**

- C3 S. 44 applied (31.7.1998 with effect as mentioned in s. 38 of 1998 c. 36) by 1988 c. 1, s. 21 (as substituted by 1998 c. 36, s. 38, Sch. 5 Pt. I paras. 4, 73, 76)

*Benefits in kind*

**45 Car benefits.**

- (1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

**“PART I**

TABLES OF FLAT RATE CASH EQUIVALENTS

Table A

CARS WITH AN ORIGINAL MARKET VALUE UP  
TO £19,250 AND HAVING A CYLINDER CAPACITY

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Age of car at end of relevant year of assessment</i>	
	<i>Under 4 years</i>	<i>4 years or more</i>
1400 or less	£1,050	£700
More than 1400 but not more than 2000	£1,400	£940
More than 2000	£2,200	£1,450

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Table B

CARS WITH AN ORIGINAL MARKET VALUE UP TO  
£19,250 AND NOT HAVING A CYLINDER CAPACITY

<i>Original market value of car</i>	<i>Age of car at end of relevant year of assessment</i>	
	Under 4 years	4 years or more
Less than £6,000	£1,050	£700
£6,000 or more but less than £8,500	£1,400	£940
£8,500 or more but not more than £19,250	£2,200	£1,450

Table C

CARS WITH AN ORIGINAL MARKET VALUE OF MORE THAN £19,250

<i>Original market value of car</i>	<i>Age of car at end of relevant year of assessment</i>	
	Under 4 years	4 years or more
More than £19,250 but not more than £29,000	£2,900	£1,940
More than £29,000	£4,600	£3,060”

(2) This section shall have effect for the year 1988-89 and subsequent years of assessment.

**46 Car parking facilities.**

(1) In section 141 of the Taxes Act 1988 (non-cash vouchers), in subsection (6), for the words “Subsections (1) and (2)” there shall be substituted the words “ Subsection (1) ” and after that subsection there shall be inserted—

“(6A) Subsection (1) above shall not apply in relation to a non-cash voucher to the extent that it is used by the employee to obtain the use of a car parking space at or near his place of work.”

(2) In section 142 of that Act (credit-tokens), after subsection (3) there shall be inserted—

“(3A) Subsection (1) above shall not apply in relation to a credit-token to the extent that it is used by the employee to obtain the use of a car parking space at or near his place of work.”

(3) In section 155 of that Act (benefits in kind for persons in director’s or higher-paid employment: exceptions from the general charge), after subsection (1) there shall be inserted—

“(1A) Section 154 does not apply to a benefit consisting in the provision for the employee of a car parking space at or near his place of work.”

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(4) After section 197 of that Act there shall be inserted—

**“197A Car parking facilities.**

Any expenditure incurred in paying or reimbursing expenses in connection with the provision for, or use by, a person holding an office or employment of a car parking space at or near his place of work shall not be regarded as an emolument of the office or employment for any purpose of Schedule E.”

(5) This section shall have effect for the year 1988-89 and subsequent years of assessment.

**Modifications etc. (not altering text)**

C4 S. 46(1)(2) applied (31.7.1998 with effect as mentioned in s. 38 of 1998 c. 36) by 1988 c. 1, s. 21 (as substituted by 1998 c. 36, s. 38, Sch. 5 Pt. I paras. 4, 73, 76)

**47 Entertainment: non-cash vouchers.**

(1) In section 141 of the Taxes Act 1988 (non-cash vouchers), after subsection (6A) there shall be inserted—

“(6B) Subsection (1) above shall not apply in relation to any non-cash voucher to the extent that it is used to obtain entertainment (including hospitality of any kind) for the employee or a relation of his, if—

- (a) the person providing the non-cash voucher is neither his employer nor a person connected with his employer;
- (b) neither his employer nor a person connected with his employer has directly or indirectly procured the provision of the entertainment; and
- (c) the entertainment is not provided either in recognition of particular services which have been performed by him in the course of his employment or in anticipation of particular services which are to be so performed by him;

and section 839 shall apply for determining whether persons are connected for the purposes of this subsection.”

(2) In subsection (1) of section 36 of the <sup>M32</sup>Finance (No. 2) Act 1975 (vouchers other than cash vouchers), for the words “Subject to subsection (2) below” there shall be substituted the words “ Subject to the provisions of this section ”.

(3) The provision set out in subsection (1) above shall be inserted after subsection (3A) of that section as subsection (3B) with the substitution—

- (a) for the reference to section 839 of the Taxes Act 1988 of a reference to section 533 of the Taxes Act 1970; and
- (b) for any reference to a non-cash voucher of a reference to a voucher.

(4) The amendment made by subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and the amendments made by subsections (2) and (3) above shall have effect for the year 1987-88.



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**Marginal Citations**

M32 1975 c. 45.

**48 Entertainment: credit-tokens.**

- (1) In section 142 of the Taxes Act 1988 (credit-tokens), after subsection (3A) there shall be inserted—

“(3B) Subsection (1) above shall not apply in relation to any credit-token to the extent that it is used to obtain entertainment (including hospitality of any kind) for the employee or a relation of his, if—

- (a) the person providing the credit-token is neither his employer nor a person connected with his employer;
- (b) neither his employer nor a person connected with his employer has directly or indirectly procured the provision of the entertainment; and
- (c) the entertainment is not provided either in recognition of particular services which have been performed by him in the course of his employment or in anticipation of particular services which are to be so performed by him;

and section 839 shall apply for determining whether persons are connected for the purposes of this subsection.”

- (2) The provision set out in subsection (1) above shall be inserted after subsection (3) of section 36A of the <sup>M33</sup>Finance (No. 2) Act 1975 (credit-tokens) as subsection (3A) with the substitution for the reference to section 839 of the Taxes Act 1988 of a reference to section 533 of the Taxes Act 1970.
- (3) The amendment made by subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and the amendment made by subsection (2) above shall have effect for the year 1987-88.

**Marginal Citations**

M33 1975 c. 45.

**49 Entertainment of directors and higher-paid employees.**

- (1) At the end of section 155 of the Taxes Act 1988 (benefits in kind for persons in director’s or higher-paid employment: exceptions from the general charge) there shall be added—

“(7) Section 154 does not apply to a benefit consisting in the provision of entertainment (including hospitality of any kind) for the employee, or for members of his family or household, if—

- (a) the person providing the benefit is neither his employer nor a person connected with his employer;
- (b) neither his employer nor a person connected with his employer has directly or indirectly procured its provision; and
- (c) it is not provided either in recognition of particular services which have been performed by the employee in the course of his

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employment or in anticipation of particular services which are to be so performed by him;

and section 839 shall apply for determining whether persons are connected for the purposes of this subsection.”

- (2) The provision set out in subsection (1) above shall be added at the end of section 62 of the <sup>M34</sup>Finance Act 1976 as subsection (9) with the substitution—
  - (a) for the reference to section 154 of the Taxes Act 1988 of a reference to section 61 of the 1976 Act; and
  - (b) for the reference to section 839 of the Taxes Act 1988 of a reference to section 533 of the Taxes Act 1970.
- (3) The amendment made by subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and the amendment made by subsection (2) above shall have effect for the year 1987-88.

#### Marginal Citations

M34 1976 c. 40.

### *Business expansion scheme*

#### **50 Private rented housing.**

- (1) Where eligible shares in a company are issued for the purpose of raising money for qualifying activities—
  - (a) which are being carried on by the company or any of its subsidiaries; or
  - (b) which the company or any of its subsidiaries intends to carry on,
 Chapter III of Part VII of the Taxes Act 1988 (relief for investment in new corporate trades: the business expansion scheme) shall apply in relation to the company with the modifications set out in Part I of Schedule 4 to this Act.
- (2) In this section and Chapter III (as so modified) “qualifying activities”, in relation to a company by which eligible shares are issued or any subsidiary of such a company, means activities which—
  - (a) consist of or are connected with the provision and maintenance of dwelling-houses to which this section applies which the company or subsidiary lets, or intends to let, on qualifying tenancies; and
  - (b) are, during the period beginning with the date on which the shares are issued and ending four years after that date, conducted on a commercial basis and with a view to the realisation of profits.
- (3) This section applies to any dwelling-house which is not precluded from being a dwelling-house to which this section applies by Part II of Schedule 4 to this Act; and in this section and that Part of that Schedule—
  - (a) references to a company or subsidiary do not include references to a company or subsidiary which is a registered housing association within the meaning of the <sup>M35</sup>Housing Associations Act 1985 or Part VII of the <sup>M36</sup>Housing (Northern Ireland) Order 1981;
  - (b) “qualifying tenancy” means any tenancy which is—

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- (i) for the purposes of the Housing Act 1988, an assured tenancy other than an assured shorthold tenancy;
  - (ii) for the purposes of the Housing (Scotland) Act 1988, an assured tenancy other than a short assured tenancy; or
  - (iii) in Northern Ireland, a tenancy which complies with such requirements or conditions as may be prescribed by regulations made by the Department of the Environment for Northern Ireland, and is not a tenancy which falls within subsection (4) below; and
- (c) expressions which are also used in Chapter III have the same meanings as in that Chapter.
- (4) A tenancy falls within this subsection if—
- (a) it is a tenancy granted in consideration of a premium within the meaning of Schedule 3 to the <sup>M37</sup>Capital Gains Tax Act 1979; or
  - (b) any option to purchase in relation to the dwelling-house has been granted to the tenant or an associate of his;
- and in this subsection any reference to the tenant includes, in the case of a joint tenancy, a reference to either or any of the joint tenants.
- (5) Regulations under subsection (3) above shall be made by statutory rule for the purposes of the <sup>M38</sup>Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the <sup>M39</sup>Interpretation Act (Northern Ireland) 1954.
- (6) This section and Schedule 4 to this Act shall have effect in relation to shares issued after the passing of this Act and before the end of 1993.

#### Marginal Citations

- M35** 1985 c. 69.
- M36** S.I. 1981/156 (N.I.3).
- M37** 1979 c. 14.
- M38** S.I. 1979/1573 (N.I.12).
- M39** 1954 c. 33 (N.I.).

## 51 Restriction of relief.

- (1) The Taxes Act 1988 shall have effect, and be deemed always to have had effect, with the following amendments, namely—
- (a) in section 289(12)(b), the substitution of the words “sections 290A, 293” for the words “ sections 293 ”; and
  - (b) the insertion after section 290 of the following section—

### “290A Restriction of relief where amounts raised exceed permitted maximum.

- (1) Where—
- (a) a company raises any amount through the issue of eligible shares after 15th March 1988; and

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- (b) the aggregate of that amount and of all other amounts (if any) so raised within the period mentioned in subsection (2) below exceeds £500,000,

the relief shall not be given in respect of the excess.

- (2) The period referred to in subsection (1) above is—
- (a) the period of 6 months ending with the date of the issue of the shares; or
- (b) the period beginning with the preceding 6th April and ending with the date of that issue,
- whichever is the longer.
- (3) In determining the aggregate mentioned in subsection (1) above, no account shall be taken of any amount—
- (a) which is subscribed by a person other than an individual who qualifies for relief; or
- (b) as respects which relief is precluded by section 290 or this section.

- (4) Where—
- (a) at any time within the relevant period, the company in question or any of its subsidiaries carries on any trade or part of a trade in partnership, or as a party to a joint venture, with one or more other persons; and
- (b) that other person, or at least one of those other persons, is a company,

the reference to £500,000 in subsection (1) above shall have effect as if it were a reference to—

$$\frac{\pounds 500,000}{1+A},$$

where A is the total number of companies (apart from the company in question or any of its subsidiaries) which, during the relevant period, are members of any such partnership or parties to any such joint venture.

- (5) Where this section precludes the giving of relief on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from this section, be eligible for relief.
- (6) Where—
- (a) in the case of a company falling within subsection (2)(a) of section 293, the qualifying trade or each of the qualifying trades is a trade to which subsection (7) below applies;
- (b) in the case of a company falling within subsection (2)(b)(i) of that section, the subsidiary or each of the subsidiaries is a dormant subsidiary or exists wholly, or substantially wholly, for the purpose of carrying on one or more qualifying trades

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which or each of which is a trade to which subsection (7) below applies; or

- (c) in the case of a company falling within subsection (2)(b)(ii) of that section, the requirements mentioned in each of paragraphs (a) and (b) above are satisfied,

subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £5 million.

- (7) This subsection applies to a trade if it consists, wholly or substantially wholly, of operating or letting ships, other than oil rigs or pleasure craft, and—

- (a) every ship operated or let by the company carrying on the trade is beneficially owned by the company;
- (b) every ship beneficially owned by the company is registered in the United Kingdom;
- (c) throughout the relevant period the company is solely responsible for arranging the marketing of the services of its ships; and
- (d) the conditions mentioned in section 297(7) are satisfied in relation to every letting by the company.

- (8) Where—

- (a) any of the requirements mentioned in paragraphs (a) to (c) of subsection (7) above are not satisfied in relation to any ships; or
- (b) any of the conditions referred to in paragraph (d) of that subsection are not satisfied in relation to any lettings,

the trade shall not thereby be precluded from being a trade to which that subsection applies if the operation or letting of those ships, or, as the case may be, those lettings do not amount to a substantial part of the trade.

- (9) The Treasury may by order amend any of the foregoing provisions of this section by substituting a different amount for the amount for the time being specified there.

- (10) Where—

- (a) the issue of the eligible shares is made in pursuance of a prospectus published, or an offer in writing made, before 15th March 1988;
- (b) the shares are issued after that date and before 6th April 1988; and
- (c) subsection (6) above does not apply,

subsections (1) and (4) above shall have effect as if for the amount there specified there were substituted £1 million.

- (11) In this section—

“let” means let on charter and “letting” shall be construed accordingly;

“oil rig” and “pleasure craft” have the same meanings as in section 297;

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“prospectus” has the meaning given by section 744 of the Companies Act 1985 or Article 2(3) of the Companies (Northern Ireland) Order 1986.”

- (2) Schedule 5 to the <sup>M40</sup>Finance Act 1983 shall be deemed always to have had effect as if—
- (a) in paragraph 2(7), for the words “paragraphs 5” there had been substituted the words “ paragraphs 3A, 5 ”; and
  - (b) the provisions set out in subsection (1)(b) above had been inserted, with any necessary modifications, after paragraph 3 as paragraph 3A.

#### Marginal Citations

M40 1983 c. 28.

## 52 Valuation of interests in land.

- (1) In section 294 of the Taxes Act 1988 (companies with interests in land), after subsection (5) there shall be inserted—
- “(5A) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as to become, in law, part of it.”
- (2) This section shall have effect in relation to valuations which fall to be made after the passing of this Act.

## 53 Approved investment funds.

- (1) For subsection (3) of section 311 of the Taxes Act 1988 there shall be substituted—
- “(2A) Subsection (2B) below applies where an individual claims relief in respect of eligible shares in a company and—
- (a) the shares have been issued to the managers of an approved fund as nominee for the individual;
  - (b) the fund has closed, that is to say, no further investments in the fund are to be accepted; and
  - (c) the amounts which the managers have, as nominee for the individual, subscribed for eligible shares issued within six months after the closing of the fund represent not less than 90 per cent. of his investment in the fund;
- and in this section “the managers of an approved fund” means the person or persons having the management of an investment fund approved for the purposes of this section by the Board.
- (2B) In any case where this subsection applies, subsections (5) to (7) of section 289 and subsections (1) to (3) and (6) of section 304 shall have effect as if—
- (a) any reference to the year of assessment or other period in which the shares are issued were a reference to the year of assessment or other period in which the fund closes; and

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- (b) any reference to the time of the issue of the shares, or the time of the subscription for the shares, were a reference to the time of the closing of the fund.
- (3) Section 290(1) shall not apply where the amount is subscribed as nominee for an individual by the managers of an approved fund.”
- (2) This section shall have effect in relation to approved funds closing after 15th March 1988.

*Pensions etc.*

#### **54 Personal pension schemes: commencement.**

- (1) In section 56(1) of the <sup>M41</sup>Finance (No. 2) Act 1987 and section 655(4) of the Taxes Act 1988 (personal pension schemes not to be approved with effect from date earlier than 4th January 1988) for “4th January” there shall be substituted “ 1st July ”.
- (2) In consequence of the amendment made by subsection (1) above—
  - (a) the same amendment shall be made in—
    - (i) section 54(1) of the Act of 1987 and section 618(1) of the Act of 1988 (no retirement annuity relief for contracts made or trust schemes established on or after 4th January 1988);
    - (ii) section 54(3) of the Act of 1987 and section 618(2) of the Act of 1988 (limit on lump sums under contracts made or schemes established before 4th January 1988); and
    - (iii) section 20(3) of the Act of 1987 and section 632(3) of the Act of 1988 (removal of restriction from certain schemes established before 4th January 1988);
  - (b) in section 55 of the Act of 1987 and section 655 of the Act of 1988 (transitional provisions: carry back and carry forward)—
    - (i) in subsection (2), for “1984-85, 1985-86 or 1986-87” there shall be substituted “ 1985-86, 1986-87 or 1987-88 ”; and
    - (ii) in subsection (3), for “1987-88” there shall be substituted “ 1988-89 ”; and
  - (c) in section 56(2) of the Act of 1987 and section 655(5) of the Act of 1988 (provisional approval where application made before 1st August 1989) for “August 1989” there shall be substituted “ February 1990 ”.
- (3) The amendments made by this section shall be deemed always to have had effect.

#### **Marginal Citations**

**M41** 1987 c. 51.

#### **55 Personal pension schemes: other amendments.**

- (1) At the end of section 630 of the Taxes Act 1988 (interpretation of Chapter IV of Part XIV) there shall be inserted— “ and references to an employee or to an employer include references to the holder of an office or to the person under whom an office is held. ”

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- (2) In section 638 of that Act, for subsection (7) (personal pension schemes which permit acceptance of certain contributions not to be approved) there shall be substituted—
- “(7) The Board shall not approve a personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual’s service as director of a company, if his emoluments as such are within section 644(5).
- (8) A personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual’s service in an office or employment to which section 645 applies may be approved by the Board only if—
- (a) the scheme does not permit the acceptance of contributions from the individual or from the person who is his employer in relation to that office or employment; or
- (b) at the time when the minimum contributions are paid the individual is not serving in an office or employment to which section 645 applies.”
- (3) In section 686(2) of that Act (income arising to trustees which is chargeable to income tax at the additional rate), for paragraph (c) there shall be substituted—
- “(c) is not income arising under a trust established for charitable purposes only or income from investments, deposits or other property held—
- (i) for the purposes of a fund or scheme established for the sole purpose of providing relevant benefits within the meaning of section 612; or
- (ii) for the purposes of a personal pension scheme (within the meaning of section 630) which makes provision only for benefits such as are mentioned in section 633; and”
- (4) The amendments made by this section shall be deemed to have come into force on 1st July 1988.

## 56 Occupational pension schemes.

In Schedule 23 to the Taxes Act 1988 (which alters the rules of schemes approved before 23rd July 1987) the following sub-paragraphs shall be substituted for sub-paragraph (2) of paragraph 1—

- “(2) The Board may by regulations provide that, in circumstances prescribed in the regulations, this Schedule or any provision of it shall not apply or shall apply with such modifications as may be so prescribed.
- (2A) Regulations under sub-paragraph (2) above—
- (a) may include provision authorising the Board to direct that this Schedule or any provision of it shall not apply in any particular case where in the opinion of the Board the facts are such that its application would not be appropriate;
- (b) may take effect (and may authorise any direction given under them to take effect) as from 17th March 1987 or any later date;
- (c) may make such supplementary provision as appears to the Board to be necessary or expedient.”



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## **57 Lump sum benefits paid otherwise than on retirement.**

- (1) In section 14 of the <sup>M42</sup>Finance Act 1973 and section 189 of the Taxes Act 1988 (lump sum benefits paid on retirement not chargeable to income tax under Schedule E), for the words “on his retirement from an office or employment” there shall be substituted the words “(whether on his retirement from an office or employment or otherwise)”.
- (2) The amendments made by this section shall be deemed always to have had effect.

### **Marginal Citations**

**M42** 1973 c. 51.

## *Underwriters*

## **58 Assessment and collection.**

- (1) For subsection (2) of section 450 of the Taxes Act 1988 (underwriters) there shall be substituted—
  - “(2) The aggregate for any year of assessment of—
    - (a) the profits or gains arising to a member from his underwriting business; and
    - (b) the profits or gains arising to him from assets forming part of a premiums trust fund,shall be chargeable to tax under Case I of Schedule D; but nothing in this subsection shall affect the manner in which the amount of those profits or gains is to be computed.
- (2A) Schedule 19A shall have effect with respect to the assessment and collection of tax charged under Case I of Schedule D in accordance with this section.”
- (2) Section 39 of the <sup>M43</sup>Finance Act 1973 shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted—
  - “(2) Schedule 16A to this Act shall have effect with respect to the assessment and collection of tax charged under Case I of Schedule D in accordance with Schedule 16 to this Act.”
- (3) In Schedule 16 to that Act (underwriters)—
  - (a) the subsection (2) set out in subsection (1) above shall be inserted after paragraph 2 as paragraph 2A; and
  - (b) paragraph 16 (assessment on agent) shall cease to have effect.
- (4) The provisions set out in Schedule 5 to this Act shall be inserted—
  - (a) after Schedule 19 to the Taxes Act 1988 as Schedule 19A; and
  - (b) after Schedule 16 to the Finance Act 1973 as Schedule 16A.
- (5) Subsections (1) and (4)(a) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsections (2), (3) and (4)(b) above shall have effect for the years 1986-87 and 1987-88.

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#### Marginal Citations

M43 1973 c. 51.

### 59 Reinsurance: general.

- (1) In subsection (4) of section 450 of the Taxes Act 1988 (underwriters), for paragraph (b) there shall be substituted—
- “(b) any insurance money payable to him under that insurance in respect of a loss shall be taken into account as a trading receipt in computing those profits or gains for the year of assessment which corresponds to the underwriting year in which the loss arose;”
- (2) The amendment set out in subsection (1) above shall also be made in paragraph 4 of Schedule 16 to the Finance Act 1973 (underwriters).
- (3) Subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsection (2) above shall have effect for the years 1985-86, 1986-87 and 1987-88.

### 60 Reinsurance to close.

- (1) For subsection (5) of section 450 of the Taxes Act 1988 (underwriters) there shall be substituted—
- “(5) Subsection (5A) below applies where—
- (a) in accordance with the rules or practice of Lloyd’s and in consideration of the payment of a premium, one member agrees with another to meet liabilities arising from the latter’s business for an underwriting year so that the accounts of the business for that year may be closed; and
- (b) the member by whom the premium is payable is a continuing member, that is, a member not only of the syndicate as a member of which he is liable to pay the premium (“the reinsured syndicate”) but also of the syndicate as a member of which the other member is entitled to receive it (“the reinsurer syndicate”).
- (5A) In any case where this subsection applies—
- (a) in computing for the purposes of income tax the profits or gains of the continuing member’s business as a member of the reinsured syndicate, the amount of the premium shall be deductible as an expense of his only to the extent that it is shown not to exceed a fair and reasonable assessment of the value of the liabilities in respect of which it is payable; and
- (b) in computing for those purposes the profits or gains of his business as a member of the reinsurer syndicate, those profits or gains shall be reduced by an amount equal to any part of a premium which, by virtue of paragraph (a) above, is not deductible as an expense of his as a member of the reinsured syndicate;

and the assessment referred to above shall be taken to be fair and reasonable only if it is arrived at with a view to producing the result that a profit does

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not accrue to the member to whom the premium is payable but that he does not suffer a loss.”

- (2) The provisions set out in subsection (1) above, but renumbered as subsections (1) and (2) and with the substitution, in the provision renumbered as subsection (1), of the words “subsection (2)” for the words “subsection (5A)”, shall also be substituted for subsections (1) to (4) of section 70 of the <sup>M44</sup>Finance (No. 2) Act 1987 (underwriters); and in subsection (5) of that section, for the word “underwriter” there shall be substituted the word “member”.
- (3) In this section—
- (a) subsection (1) shall have effect in relation to premiums payable in connection with the closing of accounts of a member’s business for an underwriting year ending in the year 1988-89 or any subsequent year of assessment; and
  - (b) subsection (2) shall have effect in relation to premiums payable in connection with the closing of accounts of a member’s business for an underwriting year ending in the year 1985-86, 1986-87 or 1987-88.

#### Marginal Citations

**M44** 1987 c. 51.

## 61 Minor and consequential amendments.

- (1) In the Taxes Act 1988—
- (a) in section 20, at the beginning of subsection (2) there shall be inserted the words “ Except as provided by section 450 (underwriters) ”;
  - (b) in section 451, in subsection (1), for paragraph (a) there shall be substituted—
    - (a) for the assessment and collection of tax charged in accordance with section 450 (so far as not provided for by Schedule 19A);
    - (aa) for making, in the event of any changes in the rules or practice of Lloyd’s, such amendments of that Schedule as appear to the Board to be expedient having regard to those changes;”
  - (c) after that subsection there shall be inserted—
 

“(1A) Regulations under subsection (1) above may make provision with respect to the year of assessment next but one preceding the year of assessment in which they are made.”; and
  - (d) in section 452(8), for the words “Case I of Schedule D” there shall be substituted the words “ in accordance with section 450 ” and the words “the investments forming part of the premiums trust fund of the underwriter” shall cease to have effect.
- (2) In Schedule 10 to the Taxes Act 1970, in paragraph 7(3), for the words “Case I of Schedule D” there shall be substituted the words “ in accordance with Schedule 16 to <sup>M45</sup>Finance Act 1973 ” and the words “the investments forming part of the premiums trust fund of the underwriter” shall cease to have effect.
- (3) In section 87 of the <sup>M46</sup>Finance Act 1972, at the beginning of subsection (3) there shall be inserted the words “ Except as provided by Schedule 16 to Finance Act 1973 (underwriters) ”.

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- (4) In Schedule 16 to the <sup>M47</sup>Finance Act 1973—
- (a) in sub-paragraph (1) of paragraph 17, for paragraph (a) there shall be substituted—
- “(a) for the assessment and collection of tax charged in accordance with the preceding provisions of this Schedule (so far as not provided for by Schedule 16A to this Act);
- (aa) for making, in the event of any changes in the rules or practice of Lloyd’s, such amendments of that Schedule as appear to the Board to be expedient having regard to those changes;”
- (b) after that sub-paragraph, there shall be inserted—
- “(1A) Regulations under this paragraph may make provision with respect to the year of assessment next but one preceding the year of assessment in which they are made.”
- (5) Subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsections (2) to (4) above shall have effect for the years 1986-87 and 1987-88.

#### Marginal Citations

**M45** 1973 c. 51.

**M46** 1972 c. 41.

**M47** 1973 c. 51.

### *Oil licences*

#### **62 Disposals of oil licences relating to undeveloped areas.**

- (1) If, at the time of the material disposal of a licence, the licence relates to an undeveloped area, then, to the extent that the consideration for the disposal consists of—
- (a) another licence which at that time relates to an undeveloped area or an interest in another such licence, or
- (b) an obligation to undertake exploration work or appraisal work in an area which is or forms part of the licensed area in relation to the licence disposed of,
- the value of that consideration shall be treated as nil for the purposes of the <sup>M48</sup>Capital Gains Tax Act 1979 (in this section referred to as “the 1979 Act”) and the appropriate legislation relating to capital allowances.
- (2) For the purposes of this section a “material disposal” is a disposal (which includes a part disposal) which occurred or occurs before or after the passing of this Act, other than,—
- (a) so far as concerns the 1979 Act, a disposal which is made otherwise than by way of a bargain at arm’s length; and
- (b) so far as concerns the appropriate legislation relating to capital allowances, a disposal in relation to which [<sup>F5</sup>sections 157 and 158 of the Capital Allowances Act 1990] (sales between connected persons etc.) has effect.
- (3) If a material disposal of a licence which, at the time of the disposal, relates to an undeveloped area is part of a larger transaction under which one party makes to another

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material disposals of two or more licences, each of which at the time of the disposal relates to an undeveloped area, the reference in subsection (1)(b) above to the licensed area in relation to the licence disposed of shall be construed as a reference to the totality of the licensed areas in relation to those two or more licences.

- (4) Where a claim is made under section 68(5)(b) of the <sup>M49</sup>Finance Act 1985 (claims to substitute, for indexation purposes, a 1982 market value for cost on certain disposals between 1st April 1985 and 5th April 1988) for the purpose of computing the indexation allowance on a material disposal of a licence which, at the time of the disposal, relates to an undeveloped area and, accordingly, it is assumed for that purpose that, on 31st March 1982, the licence concerned was sold and immediately reacquired, then, for that purpose, section 34 of the 1979 Act (effect of capital allowances on allowable expenditure) shall apply in relation to any capital allowance—

(a) made in respect of the expenditure actually incurred in providing the licence, and

(b) so made for an accounting period ending on or after 1st April 1982,

as if the allowance (or, if the accounting period begins before that date, a time-apportioned part of the allowance) were made in respect of expenditure which, on that assumption, was incurred in reacquiring the asset on 31st March 1982.

- (5) In relation to a material disposal of a licence which at the time of the disposal relates to an undeveloped area, being a disposal—

(a) which is a part disposal of the licence in question, and

(b) part but not the whole of the consideration for which falls within paragraph (a) or paragraph (b) of subsection (1) above,

section 35 of the 1979 Act (apportionment of expenditure etc. on part disposals) shall not apply unless the amount or value of the part of the consideration which does not fall within one of those paragraphs is less than the aggregate of the amounts which, if the material disposal were a disposal of the whole of the licence rather than a part disposal, would be—

(i) the relevant allowable expenditure, as defined in section 86 of the <sup>M50</sup>Finance Act 1982 (indexation allowance on certain disposals); and

(ii) the indexation allowance on the disposal.

- (6) Where section 35 of the 1979 Act has effect in relation to such a disposal as is referred to in subsection (5) above, it shall have effect as if, for subsection (2) thereof, there were substituted the following subsection—

“(2) The apportionment shall be made by reference to—

(a) the amount or value of the consideration for the disposal on the one hand (call that amount or value A), and

(b) the aggregate referred to in subsection (5) of section 62 of the Finance Act 1988 on the other hand (call that aggregate C),

and the fraction of the said sums allowable as a deduction in computing the amount of the gain (if any) accruing on the disposal shall be—

$$\frac{A}{C},$$

and the remainder shall be attributed to the part of the property which remains undisposed of.”

- (7) In the case of a material disposal—

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- (a) which falls within subsection (5) above, and
- (b) in respect of which a claim is made under section 68(5)(b) of the <sup>M51</sup>Finance Act 1985,

the claim shall be treated also as having effect for the purpose of determining the indexation allowance referred to in sub-paragraph (ii) of subsection (5) above on the notional material disposal of the whole of the licence referred to in that subsection.

#### Textual Amendments

**F5** Words in s. 62(2)(b) substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(3), [Sch. 1 para. 9\(1\)](#).

#### Marginal Citations

**M48** 1979 c. 14.  
**M49** 1985 c. 54.  
**M50** 1982 c. 39.  
**M51** 1985 c. 54.

### 63 Allowance of certain drilling expenditure etc. in determining chargeable gains.

- (1) On the disposal of a licence, whether occurring before or after the passing of this Act, relevant qualifying expenditure incurred by the person making the disposal—
  - (a) in searching for oil anywhere in the licensed area, or
  - (b) in ascertaining the extent or characteristics of any oil-bearing area the whole or part of which lies in the licensed area or what the reserves of oil of any such oil-bearing area are,
 shall be treated as expenditure falling within section 32(1)(b) of the <sup>M52</sup>Capital Gains Tax Act 1979 (enhancement expenditure reflected in the state or nature of the asset at the time of disposal).
- (2) Expenditure incurred as mentioned in subsection (1) above is relevant expenditure if, and only if,—
  - (a) it is expenditure of a capital nature on scientific research; and
  - (b) either it was allowed or allowable under section [F6137] of [F7 the Capital Allowances Act 1990] (capital expenditure on scientific research) for a chargeable period which, or the basis year for which, began before the date of the disposal or it would have been so allowable if the trading condition had been fulfilled; and
  - (c) the disposal is an occasion by virtue of which section [F8138] of that Act (termination of user of assets representing scientific research expenditure of a capital nature) applies in relation to the expenditure or would apply if the trading condition had been fulfilled and the expenditure had been allowed accordingly.
- (3) In subsection (2) above and subsection (4) below, the expression “if the trading condition had been fulfilled” means, in relation to expenditure of a capital nature on scientific research, if, after the expenditure was incurred but before the disposal concerned was made, the person incurring the expenditure had set up and commenced a trade connected with that research; and in subsection (2)(b) above—
  - (a) “chargeable period” has the same meaning as in section [F6137] of [F7 the Capital Allowances Act 1990]; and

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- (b) “basis year” has the same meaning as in subsection [F9(6)(c)] of that section.
- (4) Relevant expenditure is qualifying expenditure only to the extent that it does not exceed the trading receipt which, by reason of the disposal,—
- (a) is treated as accruing under section [F8138(2)] of [F7the Capital Allowances Act 1990]; or
- (b) would be treated as so accruing if the trading condition had been fulfilled and the expenditure had been allowed accordingly.
- (5) On the disposal of a licence, sections 31 and 34 of the <sup>M53</sup>Capital Gains Tax Act 1979 (which include provisions under which set off is given for balancing charges) shall apply in relation to any such trading receipt as is mentioned in subsection (4)(a) above as if it were a balancing charge falling to be made by reference to the disposal.
- (6) Where, on the disposal of a licence, subsection (1) above has effect in relation to any relevant qualifying expenditure which had not in fact been allowed or become allowable as mentioned in subsection (2)(b) above,—
- (a) no allowance shall be made in respect of that expenditure under section [F6137] of [F7the Capital Allowances Act 1990]; and
- (b) no deduction shall be allowed in respect of it under section [F8138(3)] of that Act.
- (7) Where, on the disposal of a licence which is a part disposal, subsection (1) above has effect in relation to any relevant qualifying expenditure, then, for the purposes of section 35 of the Capital Gains Tax Act 1979 (part disposals), that expenditure shall be treated as wholly attributable to what is disposed of (and, accordingly, shall not be apportioned as mentioned in that section).

#### Textual Amendments

- F6** Figure in s. 63 substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(3\), Sch. 1 para. 9\(2\)\(b\)](#).
- F7** Words in s. 63 substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(3\), Sch. 1 para. 9\(2\)\(a\)](#).
- F8** Figures in s. 63 substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(3\), Sch. 1 para. 9\(2\)\(c\)](#).
- F9** Word in s. 63(3)(b) substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(3\), Sch. 1 para 9\(2\)\(d\)](#).

#### Marginal Citations

- M52** 1979 c. 14.
- M53** 1979 c. 14.

## 64 Interpretation of sections 62 and 63.

- (1) For the purposes of section 62 above, a licence relates to an undeveloped area at any time if—
- (a) for no part of the licensed area has consent for development been granted to the licensee by the Secretary of State on or before that time; and
- (b) for no part of the licensed area has a programme of development been served on the licensee or approved by the Secretary of State on or before that time.

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- (2) Subsections (4) and (5) of section 36 of the <sup>M54</sup>Finance Act 1983 (meaning of “development”) shall have effect in relation to subsection (1) above as they have effect in relation to subsection (2) of that section.
- (3) In relation to a licence under the <sup>M55</sup>Petroleum (Production) Act (Northern Ireland) 1964 any reference in subsection (1) above to the Secretary of State shall be construed as a reference to the Department of Economic Development.
- (4) In relation to a material disposal, within the meaning of section 62 above, of a licence under which the buyer acquires an interest in the licence only so far as it relates to part of the licensed area, any reference in subsection (1) or subsection (3) of that section or subsection (1) above to the licensed area shall be construed as a reference only to that part of the licensed area to which the buyer’s acquisition relates.
- (5) In sections 62 and 63 above and the preceding provisions of this section “oil”, “licence”, “licensee” and, subject to subsection (4) above, “licensed area” have the meaning assigned by section 12(1) of the <sup>M56</sup>Oil Taxation Act 1975.
- (6) In section 62 above—
- (a) “exploration work”, in relation to any area, means work carried out for the purpose of searching for oil anywhere in that area;
  - (b) “appraisal work”, in relation to any area, means work carried out for the purpose of ascertaining the extent or characteristics of any oil-bearing area the whole or part of which lies in the area concerned or what the reserves of oil of any such oil-bearing area are;
  - (c) “the appropriate legislation relating to capital allowances” [<sup>F10</sup>means Part IV of the Capital Allowances Act 1990;]
  - (d) any reference to section 68(5)(b) of the <sup>M57</sup>Finance Act 1985 is a reference to that section as it had effect before the amendment made by Schedule 8 to this Act.

#### Textual Amendments

**F10** Words in s. 64(6)(c) substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(3), [Sch. 1 para. 9\(3\)](#).

#### Marginal Citations

**M54** 1983 c. 28.

**M55** 1964 c. 28 (N.I.).

**M56** 1975 c. 22.

**M57** 1985 c. 54.

### Miscellaneous

#### 65 Commercial woodlands.

Schedule 6 to this Act (which abolishes the charge to tax under Schedule B and makes other provision with respect to the occupation of commercial woodlands) shall have effect.



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## 66 Company residence.

- (1) Subject to the provisions of Schedule 7 to this Act, a company which is incorporated in the United Kingdom shall be regarded for the purposes of the Taxes Acts as resident there; and accordingly, if a different place of residence is given by any rule of law, that place shall no longer be taken into account for those purposes.
- (2) For the purposes of the Taxes Acts, a company which—
  - (a) is no longer carrying on any business; or
  - (b) is being wound up outside the United Kingdom,shall be regarded as continuing to be resident in the United Kingdom if it was so regarded for those purposes immediately before it ceased to carry on business or, as the case may be, before any of its activities came under the control of a person exercising functions which, in the United Kingdom, would be exercisable by a liquidator.
- (3) In this section “the Taxes Acts” has the same meaning as in the <sup>M58</sup>Taxes Management Act 1970.
- (4) This section and Schedule 7 to this Act shall be deemed to have come into force on 15th March 1988.

### Modifications etc. (not altering text)

C5 S. 66 excluded (27.7.1999) by 1999 c. 20, s. 20, Sch. 3 para. 3(1)(2) (with s. 15)

### Marginal Citations

M58 1970 c. 9.

## 67 Seafarers: foreign earnings.

- (1) In paragraph 3 of Schedule 12 to the Taxes Act 1988 (qualifying period for relief for foreign earnings) after sub-paragraph (2) there shall be inserted—

“(2A) In relation to emoluments from employment as a seafarer, sub-paragraph (2) above shall have effect—

  - (a) as if the number of days specified in paragraph (a) were 90 instead of 62, and
  - (b) as if the fraction specified in paragraph (b) were one quarter instead of one sixth;

and for the purposes of this sub-paragraph “employment as a seafarer” means employment consisting of the performance of duties on a ship (or of such duties and of others incidental to them).”
- (2) This section shall have effect for the year 1988-89 and subsequent years of assessment; but the relevant period and the earlier qualifying period referred to in paragraph 3(2) of Schedule 12 to the Taxes Act 1988 shall not be treated as a single period by virtue of this section if none of the intervening days falls after 5th April 1988.

## 68 Priority share allocations for employees etc.

- (1) Where—
  - (a) there is [<sup>F11</sup>a bona fide offer] to the public of shares in a company <sup>F12</sup> . . .

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(b) <sup>F12</sup> . . . , and

(c) the conditions set out in subsection (2) below are satisfied,  
any benefit derived by the director or employee from his entitlement shall not be treated as an emolument of his office or employment.

[<sup>F13</sup>(1ZA) A case falls within this subsection if—

- (a) there is a bona fide offer to the public of a combination of shares in two or more companies at a fixed price or by tender (“the public offer”);
- (b) there is at the same time an offer (“the employee offer”) of shares, or of a combination of shares, in any one or more, but not all, of those companies—
  - (i) to directors or employees, or
  - (ii) to directors or employees and to other persons,
 (whether the directors or employees are directors or employees of any of those companies, or of any other company or person); and
- (c) any of those directors or employees is entitled, by reason of his office or employment, to an allocation of shares under the employee offer in priority to any allocation to members of the public under the public offer.

(1ZB) In any case falling within subsection (1ZA) above—

- (a) the public offer and the employee offer shall be regarded for the purposes of subsection (1) above as together constituting a single offer of shares to the public, notwithstanding the difference in the shares to which each offer relates;
- (b) the reference to “the shares” in paragraph (b) of that subsection shall be taken as a reference to any of the shares which, in consequence of paragraph (a) above, are to be regarded as subject to that single offer; and
- (c) in the following provisions of this section references to the offer or to shares subject to the offer shall be construed accordingly.]

[<sup>F14</sup>(1A) Where, disregarding the amount or value of any registrant discount made to the director or employee in respect of the shares of the company (or, in a case falling within subsection (1ZA) above, of the company in question), the price payable by him for the shares of that company which are allocated to him under the offer—

- (a) in a case not falling within subsection (1ZA) above, is less than the fixed price or the lowest price successfully tendered, or
- (b) in a case falling within that subsection, is not the same as, or as near as reasonably practicable to, the appropriate notional price for the shares of that company,

subsection (1) above shall not apply to the benefit (if any) represented by the difference in price.]

(2) The conditions referred to in subsection (1) above are—

- [<sup>F15</sup>(a) that the aggregate number of shares subject to the offer that may be allocated as mentioned in subsection (1)(b) above does not exceed the limit specified in subsection (2A) below or, as the case may be, either of the limits specified in subsection (2B) below]
- (b) that all the persons entitled to such an allocation are entitled to it on similar terms;
- (c) that those persons are not restricted wholly or mainly to persons who are directors or whose remuneration exceeds a particular level.

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- [<sup>F16</sup>(2A) Except where subsection (2B) below applies, the limit relevant for the purposes of subsection (2)(a) above is 10 per cent. of the shares subject to the offer (including the shares that may be allocated as mentioned in subsection (1)(b) above).
- (2B) Where the offer is part of arrangements which include one or more other offers to the public of shares of the same class, the limits relevant for the purposes of subsection (2) (a) above are—
- (a) 40 per cent. of the shares subject to the offer (including the shares that may be allocated as mentioned in subsection (1)(b) above), and
  - (b) 10 per cent. of all the shares of the class in question (including the shares that may be so allocated) that are subject to any of the offers forming part of the arrangements.]

[<sup>F17</sup>(2C) In a case falling within subsection (1ZA) above, the condition in paragraph (a) of subsection (2) above shall be taken to be satisfied in relation to the offer if, and only if, it is separately satisfied with respect to the shares in each one of the companies which are subject to that offer; and for this purpose only, any reference in that paragraph or in subsection (2A) or (2B) above to shares is a reference to shares in the particular company in question.]

(3) For the purposes of subsection (2)(b) above the fact that different provision is made for persons according to the levels of their remuneration, the length of their service or similar factors shall not be regarded as meaning that they are not entitled to an allocation on similar terms.

[<sup>F18</sup>(3A) The fact that the allocations of shares in the company [<sup>F19</sup>(or, in a case falling within subsection (1ZA) above, any one or more of the companies to which the offer relates)] to which persons who are not directors or employees of the company are entitled are smaller than those to which directors or employees of the company are entitled shall not be regarded for the purposes of subsection (2)(b) above as meaning that they are not entitled on similar terms if—

    - (a) each of the first-mentioned persons is also entitled, by reason of his office or employment and in priority to members of the public, to an allocation of shares in another company or companies which are offered to the public (at a fixed price or by tender) at the same time as the shares in the company, and
    - (b) in the case of each of those persons the aggregate value (measured by reference to the fixed price or the lowest price successfully tendered) of all the shares included in the allocations to which he is entitled is the same, or as nearly the same as is reasonably practicable, as that of the shares in the company included in the entitlement of a comparable director or employee of the company.]

(4) Section 29A(1) of the <sup>M59</sup>Capital Gains Tax Act 1979 (assets deemed to be acquired at market value) shall not apply to any acquisition in relation to which subsection (1) above applies.

(5) In this section “director” includes a person who is to be, or has ceased to be, a director and “employee” includes a person who is to be, or has ceased to be, an employee

[<sup>F20</sup>“the public offer” and “the employee offer” have the meaning given by paragraphs (a) and (b) of subsection (1ZA) above.].

[<sup>F21</sup>(5A) For the purposes of this section, there is a “registrant discount” in respect of the shares of a company in any case where—

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- (a) in connection with the offer, members of the public who comply with such requirements as may be imposed in that behalf are, or may become, entitled to a discount in respect of the whole or some part of the shares of that company which are allocated to them; and
- (b) at least 40 per cent. of the shares of that company which are allocated to members of the public other than employees and directors are allocated to individuals who are or become entitled either to that discount or to some other benefit of similar value for which they may elect as an alternative to the discount; and
- (c) directors or employees who either—
  - (i) subscribe for shares under the offer (or, in a case falling within subsection (1ZA) above, under the public offer) as members of the public, or
  - (ii) subscribe for shares under the employee offer, as directors or employees,

and who comply (or, in the case of a requirement to register, are taken under the terms of the offer to comply) with the same requirements as are mentioned in paragraph (a) above, are, or may become, entitled to the same discount in respect of the shares of the company as any other members of the public to whom shares of that company are allocated under the offer;

and any reference in this section to the amount or value of the registrant discount made to a director or employee is a reference to the amount of any such discount made to him as is mentioned in paragraph (c) above or, as the case may be, the value of any such other benefit as is mentioned in paragraph (b) above which is conferred upon him as an alternative to the discount.

(5B) For the purposes of this section, in a case falling within subsection (1ZA) above “the appropriate notional price” for the shares of any of the companies subject to the offer is such price as—

- (a) had the shares of that company, and of each of the other companies, instead of being subject to the offer, been subject to separate offers to the public in respect of each company at fixed prices, and
- (b) had those separate offers been made at the time at which the public offer was in fact made,

might reasonably have been expected to be the fixed price for the shares of that company under the separate offer of those shares; but where subsection (5C) below applies, the amount determined in accordance with this subsection as the notional price for the shares of any company shall be varied in accordance with that subsection.

(5C) If the amounts determined in accordance with subsection (5B) above as the appropriate notional prices for the shares of each of the companies subject to the public offer are such that, had the price for the combination of shares subject to the public offer been determined by aggregating the appropriate notional price (as so determined) for each one of the shares comprised in the combination, the price for the combination would have been different from the actual fixed price or (as the case may be) lowest successfully tendered price, then those amounts shall each be varied by multiplying them by the fraction of which—

- (a) the numerator is the actual fixed or lowest successfully tendered price for the combination of shares subject to the public offer; and
- (b) the denominator is the different price mentioned above;

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and those amounts, as so varied, shall be the appropriate notional prices for the purposes of this section.]

(6) This section shall apply to offers made on or after 23rd September 1987.

#### Textual Amendments

- F11** Words in s. 68(1)(a) substituted(*retrospectively in relation to offers made on or after 16.01.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 44(2)(with s. 44(1))
- F12** Words in s. 68(1) repealed(*for offers made on or after 11.10.1988*) by Finance Act 1989 (c. 26, SIF 63:1), ss. 66(2), 187(1), Sch. 17 Pt. IV Note 7.
- F13** S. 68(1ZA)(1ZB) inserted(*retrospectively in relation to offers made on or after 16.01.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 44(3)(with s. 44(1))
- F14** S. 68(1A) substituted(*retrospectively in relation to offers made on or after 16.01.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 44(4)(with s. 44(1))
- F15** S. 68(2)(a) substituted(*for offers made on or after 11.10.1988*) by Finance Act 1989 (c. 26, SIF 63:1), s. 66(4).
- F16** S. 68(2A)(2B) inserted(*for offers made on or after 11.10.1988*) by Finance Act 1989 (c. 26, SIF 63:1), s. 66(5).
- F17** S. 68(2C) inserted(*retrospectively in relation to offers made on or after 16.01.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 44(5)(with s. 44(1))
- F18** S. 68(3A) inserted(*for offers made on or after 26.07.1990*) by Finance Act 1990 (c. 29, SIF 63:1), s. 79.
- F19** Words in s. 68(3A) inserted(*retrospectively in relation to offers made on or after 16.01.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 44(6)(with s. 44(1))
- F20** Words in 68(5) added(*retrospectively in relation to offers made on or after 16.01.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 44(7)(with s. 44(1))
- F21** S. 68(5A)-(5C) inserted(*retrospectively in relation to offers made on or after 16.01.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 44(8)(with s. 44(1))

#### Marginal Citations

**M59** 1979 c. 14.

## 69 Share options: loans.

(1) Paragraph 13 of Schedule 9 to the Taxes Act 1988 (approved share option schemes: cases where scheme shares are subject to restrictions) shall have effect, and shall be deemed always to have had effect, with the addition of the following sub-paragraph after sub-paragraph (2)—

“(3) In the case of schemes other than savings-related share option schemes, sub-paragraph (1) above does not apply in relation to any terms of a loan making provision about how it is to be repaid or the security to be given for it.”

(2) Paragraph 10 of Schedule 10 to the <sup>M60</sup>Finance Act 1984 (approved share option schemes: cases where scheme shares are subject to restrictions) shall be deemed always to have had effect with the addition of the following sub-paragraph after sub-paragraph (2)—

“(3) Sub-paragraph (1) above does not apply in relation to any terms of a loan making provision about how it is to be repaid or the security to be given for it.”

*Status: Point in time view as at 27/07/1991.*

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### Marginal Citations

M60 1984 c. 43.

## 70 Charities: payroll deduction scheme.

- (1) In section 202(7) of the Taxes Act 1988 (which limits to £120 the deductions attracting relief) for “ £120 ” there shall be substituted “ £240 ”.
- (2) This section shall have effect for the year 1988-89 and subsequent years of assessment.

## 71 Unit trusts: relief on certain payments.

Section 469 of the Taxes Act 1988 (taxation of unauthorised and certain other unit trusts) shall have effect, and shall be deemed always to have had effect, with the insertion of the following subsections after subsection (5)—

“(5A) Subsection (5B) below applies where for any year of assessment—

- (a) the trustees are (or, apart from this subsection, would be) chargeable under section 350 with tax on payments treated as made by them under subsection (3) above, and
- (b) there is an uncredited surplus in the case of the scheme.

(5B) Where this subsection applies, the amount on which the trustees would otherwise be so chargeable shall be reduced—

- (a) if the surplus is greater than that amount, to nil, or
- (b) if it is not, by an amount equal to the surplus.

(5C) For the purposes of subsections (5A) and (5B) above whether there is an uncredited surplus for a year of assessment in the case of a scheme (and, if so, its amount) shall be ascertained by—

- (a) determining, for each earlier year of assessment in which the income on which the trustees were chargeable to tax by virtue of subsection (2) above exceeded the amount treated by subsection (3) above as annual payments received by the unit holders, the amount of the excess,
- (b) aggregating the amounts determined in the case of the scheme under paragraph (a) above, and
- (c) deducting from that aggregate the total of any reductions made in the case of the scheme under subsection (5B) above for earlier years of assessment.

(5D) The references in subsection (5C)(a) above to subsections (2) and (3) above include references to subsections (2) and (3) of section 354A of the 1970 Act.”

## 72 Entertainment of overseas customers.

- (1) Subsection (2) of section 577 of the Taxes Act 1988 (which excepts the entertainment of overseas customers from the general rule that entertainment expenses are not deductible for tax purposes) shall not have effect in relation to entertainment provided on or after 15th March 1988.

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- (2) Subsection (1) above shall not apply where the expenses incurred or the assets used in providing the entertainment were incurred or used under a contract entered into before 15th March 1988.

### 73 Consideration for certain restrictive undertakings.

- (1) For subsections (1) to (5) of section 313 of the Taxes Act 1988 (taxation of consideration for certain restrictive undertakings) there shall be substituted—

“(1) Where an individual who holds, has held, or is about to hold, an office or employment gives in connection with his holding that office or employment an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict him as to his conduct or activities, any sum to which this section applies shall be treated as an emolument of the office or employment, and accordingly shall be chargeable to tax under Schedule E, for the year of assessment in which it is paid.

(2) This section applies to any sum which—

- (a) is paid, in respect of the giving of the undertaking or its total or partial fulfilment, either to the individual or to any other person; and  
(b) would not, apart from this section, fall to be treated as an emolument of the office or employment.

(3) Where the individual has died before the payment of any sum to which this section applies, subsections (1) and (2) above shall have effect as if that sum had been paid immediately before his death.

(4) Where valuable consideration otherwise than in the form of money is given in respect of the giving of the undertaking or its total or partial fulfilment, subsections (1) to (3) above shall have effect as if a sum had instead been paid equal to the value of that consideration.”

(2) Notwithstanding anything in section 74 of the Taxes Act 1988, any sum to which section 313 of that Act applies, and which is paid or treated as paid by a person carrying on a trade, profession or vocation, may be deducted as an expense in computing the profits or gains of the trade, profession or vocation for the purposes of tax.

(3) Any sum to which section 313 of the Taxes Act 1988 applies, and which is paid or treated as paid by an investment company, shall for the purposes of section 75 of that Act be treated as an expense of management.

(4) This section has effect in relation to sums paid or treated as paid in respect of the giving of, or the total or partial fulfilment of, undertakings given on or after 9th June 1988.

#### Modifications etc. (not altering text)

- C6 s. 73(2) applied (31.7.1998 with effect as mentioned in s. 38 of 1998 c. 36) by 1988 c. 1, s. 21A (as substituted by 1998 c. 36, s. 138(1), Sch. 5 Pt. 1 paras. 4, 73, 76)  
C7 S. 73(2) modified (31.7.1998) by 1998 c. 36, s. 46(3), Sch. 7 para. 2

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#### **74 Payments on termination of office or employment etc.**

- (1) In section 188(4) of the Taxes Act 1988 (tax not chargeable by virtue of section 148 of that Act in respect of the first £25,000 of a payment on termination of office or employment etc.) for “£25,000” there shall be substituted “£30,000”.
- (2) Paragraphs 4 to 7 of Schedule 11 to that Act (relief by reduction of tax on next £50,000 of such a payment) shall cease to have effect.
- (3) This section shall apply to any payment treated by section 148(4) of that Act as income received on 6th April 1988 or any later date, unless a notice is given in relation to it in accordance with paragraph 12 of that Schedule (payments in pursuance of pre-10th March 1981 obligations).

#### **75 Premiums for leases etc.**

Sections 39(3) and 780(5) of, and Schedule 2 to, the Taxes Act 1988 (top-slicing relief where premiums for leases etc. chargeable to income tax) shall not have effect for the year 1988-89 or any subsequent year of assessment.

#### **76 Foreign dividends etc., quoted Eurobonds and recognised clearing systems.**

- (1) In section 17(1) of the Taxes Act 1988 (Schedule C) for paragraph 3 of Schedule C there shall be substituted—

Where a banker or any other person in the United Kingdom obtains payment of any overseas public revenue dividends by means of coupons received from any other person or otherwise on his behalf and either—

- (a) the payment of those dividends was not entrusted to any person in the United Kingdom, or
- (b) the securities in respect of which those dividends are paid are held in a recognised clearing system,

tax under this Schedule shall be charged in respect of those dividends.”

- (2) In section 45 of that Act (definitions relating to Schedule C) for the definition of “overseas public revenue dividends” there shall be substituted—

““overseas public revenue dividends” means public revenue dividends payable out of any public revenue other than that of the United Kingdom;”

- (3) In section 123 of that Act, in paragraph (a) of subsection (3) (Schedule D charge where collecting agents in UK obtain payment of foreign dividends elsewhere than in UK) for the words “elsewhere than in the United Kingdom” there shall be substituted the words “and either—

- (i) the payment of those dividends was not entrusted to any person in the United Kingdom, or
- (ii) the stocks, funds, shares or securities in respect of which those dividends are paid are held in a recognised clearing system”

- (4) In section 124 of that Act (interest on quoted Eurobonds) in subsection (5) (which applies, with modifications, section 123(3) to (6)) the following paragraph shall be inserted immediately before paragraph (a)—



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- “(za) subsection (3)(a)(i) shall have effect in relation to quoted Eurobonds not held in a recognised clearing system as if the words “made by or” were inserted immediately before the words “entrusted to any person in the United Kingdom””
- (5) In subsection (6) of that section (definitions)—
- (a) in the definition of “recognised clearing system” after the words “system for clearing quoted Eurobonds” there shall be inserted the words “or relevant foreign securities”; and
- (b) after that definition there shall be added—
- ““relevant foreign securities” means any of the following, that is to say—
- (a) any such stocks, funds, shares or securities as give rise to foreign dividends, within the meaning of section 123; and
- (b) any such securities as give rise to overseas public revenue dividends, within the meaning of Part III.”
- (6) Subsections (1) to (4) above shall have effect with respect to payments obtained on behalf of another by a banker or other person after the passing of this Act.

## CHAPTER II

### UNAPPROVED EMPLOYEE SHARE SCHEMES

#### Modifications etc. (not altering text)

- C8** Pt. III Ch. II (ss. 77-89) applied (6.3.1992 with effect as mentioned in s. 289 of the applying Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), **ss. 120(1), 289**, (with ss. 60, 101(1), 171, 201(3))

#### *Preliminary*

#### **77 Scope of Chapter.**

- (1) [<sup>F22</sup>Subject to subsections (2) to (4) below], this Chapter shall apply where, on or after 26th October 1987, a person acquires shares or an interest in shares in a company in pursuance of a right conferred on him or an opportunity offered to him by reason of his office as a director of, or his employment by, that or any other company.
- (2) This Chapter shall not apply in relation to an acquisition by a person who is not chargeable to tax under Case I of Schedule E in respect of the office or employment in question.
- (3) This Chapter shall not apply where the acquisition is made in pursuance of an offer to the public.
- [<sup>F23</sup>(4) Where, in a case falling within subsection (1ZA) of section 68 above, subsection (1) of that section—
- (a) applies or applied in relation to such a benefit as is there mentioned, or
- (b) would so apply or have applied, had there been any such benefit,

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any acquisition made on or after 16th January 1991 in pursuance of any of the offers which, in that case, fall to be regarded by virtue of subsection (1ZB) of that section as together constituting a single offer of shares to the public for the purposes of subsection (1) of that section shall be regarded for the purposes of subsection (3) above as an acquisition made in pursuance of an offer to the public.]

#### Textual Amendments

- F22** Words in s. 77(1) substituted (*retrospective to 16.1.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 44(9) (with s. 44(10))
- F23** S. 77(4) added (*retrospective to 16.1.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 44(9) (with s. 44(10))

### *Charges to tax*

#### 78 Charge where restrictions removed etc.

- (1) The person acquiring the shares or interest in shares shall be chargeable to tax if—
  - (a) a chargeable event occurs in relation to the shares at a time when he has not ceased to have a beneficial interest in them, and
  - (b) the shares are shares in a company which was not a dependent subsidiary at the time of the acquisition and is not a dependent subsidiary at the time of the chargeable event.
- (2) Subject to subsections (4) and (5) below, any of the following events is a chargeable event in relation to shares in a company for the purposes of this section if it increases, or but for the occurrence of some other event would increase, the value of the shares —
  - (a) the removal or variation of a restriction to which the shares are subject;
  - (b) the creation or variation of a right relating to the shares;
  - (c) the imposition of a restriction on other shares in the company or the variation of a restriction to which such other shares are subject;
  - (d) the removal or variation of a right relating to other shares in the company.
- (3) A charge by virtue of this section shall be a charge under Schedule E, for the year of assessment in which the chargeable event occurs, on the amount by which the value of the shares is increased by the chargeable event or the amount by which it would be increased but for the occurrence of some other event (or, if the interest of the person chargeable is less than full beneficial ownership, on an appropriate part of that amount).
- (4) An event is not a chargeable event in relation to shares in a company for the purposes of this section unless the person who acquired the shares or interest has been a director or employee of —
  - (a) that company, or
  - (b) (if it is different) the company as a director or employee of which he acquired the shares or interest, or
  - (c) an associated company of a company within paragraph (a) or (b) above, at some time during the period of seven years ending with the date on which the event occurs.
- (5) An event is not a chargeable event for the purposes of this section if it consists of—

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- (a) the removal of a restriction to which all shares of a class are subject from all those shares,
  - (b) the variation of such a restriction in the case of all those shares,
  - (c) the creation of a right relating to all shares of a class,
  - (d) the variation of such a right in the case of all those shares,
  - (e) the imposition of a restriction on all shares of a class, or
  - (f) the removal of a right relating to all shares of a class from all those shares,
- and any of the conditions in subsection (6) below is satisfied.
- (6) The conditions referred to in subsection (5) above are—
- (a) that at the time of the event the majority of the company's shares of the same class as those which, or an interest in which, the person acquired are held otherwise than by or for the benefit of—
    - (i) directors or employees of the company,
    - (ii) an associated company of the company, or
    - (iii) directors or employees of any such associated company;
  - (b) that at the time of the event the company is employee-controlled by virtue of holdings of shares of that class;
  - (c) that at the time of the event the company is a subsidiary which is not a dependent subsidiary and its shares are of a single class.
- (7) References in this section to restrictions to which shares are subject, or to rights relating to shares, include references to restrictions imposed or rights conferred by any contract or arrangement or in any other way.

**Modifications etc. (not altering text)**

**C9** S. 78 excluded (28.7.2000) by 2000 c. 17, s. 47, Sch. 8 Pt. X para. 80(1)(b)(2)

**79 Charge for shares in dependent subsidiaries.**

- (1) The person acquiring the shares or interest in shares shall be chargeable to tax if the shares are shares in a company which—
- (a) was a dependent subsidiary at the time of the acquisition, or
  - (b) was not a dependent subsidiary at that time but becomes a dependent subsidiary before the person making the acquisition ceases to have any beneficial interest in the shares,
- and there is a chargeable increase in the value of the shares.
- (2) There is a chargeable increase in the value of shares in a case within subsection (1)(a) above if the value of the shares at the earlier of—
- (a) the expiration of seven years from the time of the acquisition, and
  - (b) the time when the person making the acquisition ceases to have any beneficial interest in the shares,
- exceeds their value at the time of the acquisition.
- (3) Subject to subsection (7) below, there is a chargeable increase in the value of shares in a case within subsection (1)(b) above if the value of the shares at the earlier or earliest of—

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- (a) the expiration of seven years from the time when the company becomes a dependent subsidiary, and
  - (b) the time when the person making the acquisition ceases to have any beneficial interest in the shares, and
  - (c) if the company ceases to be a dependent subsidiary, the time when it does so, exceeds their value at the time when the company becomes a dependent subsidiary.
- (4) A charge by virtue of this section shall be a charge under Schedule E, for the year of assessment which includes the end of the period for which the chargeable increase is determined, on an amount equal to that increase (or, if the interest of the person chargeable is less than full beneficial ownership, on an appropriate part of that amount).
- (5) Where, in accordance with the terms on which the acquisition was made, the consideration for the acquisition is subsequently increased, the amount chargeable to tax by virtue of this section shall be reduced by an amount equal to the increase in the consideration.
- (6) Where, in accordance with those terms, the person making the acquisition subsequently ceases to have a beneficial interest in the shares by a disposal made for a consideration which is less than the value of the shares or his interest in them at the time of the disposal, the amount on which tax is chargeable by virtue of this section shall be reduced so as to be equal to the excess of that consideration over the value of the shares or interest at the time of the acquisition.
- (7) In a case within subsection (1)(b) above there is no chargeable increase in the value of shares in a company unless the person who acquired the shares or interest has been a director or employee of—
- (a) that company, or
  - (b) (if it is different) the company as a director or employee of which he acquired the shares or interest, or
  - (c) an associated company of a company within paragraph (a) or (b) above,
- at some time during the period of seven years ending with the time when the company becomes a dependent subsidiary.

**Modifications etc. (not altering text)**

**C10** S. 79 excluded (28.7.2000) by 2000 c. 17, s. 47, Sch. 8 Pt. X para. 80(3)

**80 Charge on special benefits.**

- (1) Subject to subsections (5) and (6) below, the person acquiring the shares or interest in shares shall be chargeable to tax if he receives a special benefit by virtue of his ownership of or interest in the shares.
- (2) A benefit is a “special benefit” for the purposes of subsection (1) above unless—
- (a) it is received in respect of all shares of the same class as those which, or an interest in which, the person acquired, and
  - (b) any of the conditions in subsection (3) below is satisfied.
- (3) The conditions referred to in subsection (2) above are—

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- (a) that when the benefit is received the majority of the company's shares of the class concerned are held otherwise than by or for the benefit of—
    - (i) directors or employees of the company,
    - (ii) an associated company of the company, or
    - (iii) directors or employees of any such associated company;
  - (b) that when the benefit is received the company is employee-controlled by virtue of holdings of shares of the class concerned;
  - (c) that when the benefit is received the company is a subsidiary which is not a dependent subsidiary and its shares are of a single class.
- (4) A charge by virtue of this section shall be a charge under Schedule E, for the year of assessment in which the benefit is received, on an amount equal to the value of the benefit.
- (5) Subsection (1) above shall apply only if the person receiving the benefit has been a director or employee of—
  - (a) the company referred to in that subsection, or
  - (b) (if it is different) the company as a director or employee of which he acquired the shares or interest, or
  - (c) an associated company of a company within paragraph (a) or (b) above,at some time during the period of seven years ending with the date on which the benefit is received.
- (6) A benefit shall not be chargeable by virtue of this section if it is chargeable to income tax apart from this section.

### *Miscellaneous*

#### **81 Changes in interest.**

Where a person's interest in shares is increased or reduced he shall be treated for the purposes of this Chapter as acquiring or disposing of a separate interest proportionate to the increase or reduction.

#### **82 Company reorganisations etc.**

- (1) Subsection (2) below applies where—
  - (a) a person has acquired shares or an interest in shares as mentioned in section 77 above (those shares being referred to in subsection (2) below as “the originally-acquired shares”); and
  - (b) by virtue of his holding of those shares or the interest in them he acquires (whether or not for consideration) additional shares or an interest in additional shares (those shares being referred to in subsection (2) below as “the additional shares”).
- (2) Where this subsection applies—
  - (a) the additional shares or the interest in them shall be treated for the purposes of this Chapter as having been acquired as mentioned in section 77 above and as having been acquired at the same time as the originally-acquired shares or the interest in them;

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- (b) for the purposes of section 79 above, the additional shares and the originally-acquired shares shall be treated as one holding of shares and the value of the shares comprised in that holding at any time shall be determined accordingly (the value of the originally-acquired shares at the time of acquisition being attributed proportionately to all the shares in the holding); and
  - (c) for the purposes of that section, any consideration given for the acquisition of the additional shares or the interest in them shall be taken to be an increase falling within subsection (5) of that section in the consideration for the original acquisition.
- (3) If, on a person ceasing to have a beneficial interest in any shares, he acquires other shares or an interest in other shares and the circumstances are such that, for the purposes of sections 78 to 81 of the <sup>M61</sup>Capital Gains Tax Act 1979 (reorganisations etc.) the shares in which he ceases to have a beneficial interest constitute “original shares” and the other shares constitute a “new holding”—
- (a) section 78 of that Act (which equates the original shares and the new holding) shall apply for the purposes of this Chapter; and
  - (b) if any such consideration is given for the new holding as is mentioned in section 79(1) of that Act, it shall be treated for the purposes of this Chapter as an increase falling within section 79(5) above in the consideration for the shares; and
  - (c) if any such consideration is received for the disposal of the original shares as is mentioned in section 79(2) of that Act, the consideration shall be apportioned among the shares comprised in the new holding and the amount which, apart from this paragraph, would at any subsequent time be the value of any of those shares shall be taken to be increased by the amount of the consideration apportioned to them.

#### **Marginal Citations**

**M61** 1979 c. 14.

### **83 Connected persons etc.**

- (1) For the purposes of this Chapter, where a person acquires shares or an interest in shares in a company in pursuance of a right conferred on him or opportunity offered to him as a person connected with a director or employee of that or any other company, the shares or interest shall be deemed to be acquired by the director or employee.
- (2) For the purposes of this Chapter, where a person who acquires shares or an interest in shares disposes of the shares or interest otherwise than by a bargain at arm’s length with a person who is not connected with him, he shall be deemed to continue to have a beneficial interest in the shares until there is a disposal of the shares or interest by such a bargain.
- (3) Subsection (2) above shall not apply where shares, or an interest in shares, in a company are disposed of to the company in accordance with the terms on which the acquisition was made.
- (4) Where a person who has made an acquisition as mentioned in subsection (1) above receives a benefit in the circumstances described in section 80 above, the benefit shall be treated for the purposes of that section as received by the person deemed by that

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subsection to have made the acquisition; and where at a time when a person is deemed by subsection (2) above to continue to have a beneficial interest in shares another person receives a benefit in such circumstances, the benefit shall be treated for those purposes as received by him.

#### 84 Capital gains tax.

Where an amount is chargeable to tax under this Chapter on a person who acquires shares or an interest in shares, then on the first disposal of the shares (whether by him or another person) after his acquisition, section 32(1)(a) of the <sup>M62</sup>Capital Gains Tax Act 1979 (expenditure allowable in computation of chargeable gains) shall apply as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares; and this section shall apply with the appropriate modifications in a case to which section 83 above applies.

##### Marginal Citations

M62 1979 c. 14.

#### 85 Information.

- (1) Where in any year of assessment a person acquires shares, or an interest in shares, in a company in the circumstances described in section 77(1) above, that company and (if it is different) the company as a director or employee of which he acquires the shares or interest shall give written particulars of the acquisition to the inspector within 30 days of the end of the year.
- (2) Where—
  - (a) there occurs in relation to shares in a company an event which is a chargeable event for the purposes of section 78 above, or
  - (b) a person receives a special benefit (within the meaning given for the purposes of section 80(1) above) in respect of shares, or an interest in shares, in a company,the company, and (if it is different) the company as a director or employee of which the person who acquired the shares or an interest in the shares made the acquisition, shall within 60 days give to the inspector written particulars of the event or benefit and of the shares concerned.
- (3) In the second column in the Table in section 98 of the <sup>M63</sup>Taxes Management Act 1970 (penalty for failure to furnish information, etc.) there shall be added at the end— “Section 85(1) and (2) of the Finance Act 1988 ”.

##### Marginal Citations

M63 1970 c. 9.

*Status: Point in time view as at 27/07/1991.*

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### *Supplementary*

#### **86 Meaning of “dependent subsidiary”.**

- (1) For the purposes of this Chapter a company which is a subsidiary is a dependent subsidiary throughout a period of account of the company unless—
- (a) the whole or substantially the whole of the company’s business during the period of account (taken as a whole) is business carried on with persons who are not members of the same group as the company,
  - (b) during the period of account either there is no increase in the value of the company as a result of intra-group transactions, or any such increase in value does not exceed 5 per cent. of the value of the company at the beginning of the period (or a proportionately greater or smaller percentage in the case of a period which is longer or shorter than a year),
  - (c) the directors of the principal company of the group give to the inspector, not later than two years after the end of the period of account, a certificate that in their opinion the conditions mentioned in paragraphs (a) and (b) above are satisfied in relation to the period of account, and
  - (d) there is attached to the certificate a report addressed to those directors by the auditors of the subsidiary that the auditors—
    - (i) have enquired into the state of affairs of the company with particular reference to the conditions mentioned in paragraphs (a) and (b) above, and
    - (ii) are not aware of anything to indicate that the opinion expressed by the directors in their certificate is unreasonable in all the circumstances.
- (2) For the purposes of subsection (1)(a) above business carried on with any subsidiary of the company concerned shall be treated as carried on with a person who is not a member of the same group as the company unless the whole or substantially the whole of the business of that or any other subsidiary of the company during the company’s period of account (taken as a whole) is carried on with members of the group other than the company and its subsidiaries.
- (3) In this section—
- “group” means a principal company and all its subsidiaries;
- “intra-group transactions” means transactions between companies which are members of the same group on terms which are not such as might be expected to be agreed between persons acting at arm’s length (other than any payment for group relief, within the meaning given in section 402(6) of the Taxes Act 1988);
- “period of account”, in relation to a company, means the period for which it makes up its accounts;
- “principal company” means a company of which another company is a subsidiary and which is not itself a subsidiary of another company.

#### **87 Other interpretation provisions.**

- (1) In this Chapter, except where the context otherwise requires,—
- “associated company” has the same meaning as, by virtue of section 416 of the Taxes Act 1988, it has for the purposes of Part XI of that Act;



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“director” includes a person who is to be, or who has ceased to be, a director;

“employee” includes a person who is to be, or who has ceased to be, an employee;

“shares” includes stock and also includes securities as defined in section 254(1) of the Taxes Act 1988;

“subsidiary” means 51 per cent. subsidiary;

“value”, in relation to shares or a benefit, means the amount which the person holding the shares or receiving the benefit might reasonably expect to obtain from a sale in the open market;

and references to an interest in any shares include references to an interest in the proceeds of sale of part of the shares.

- (2) For the purposes of this Chapter a company is “employee-controlled” by virtue of shares of a class if—
- (a) the majority of the company’s shares of that class (other than any held by or for the benefit of an associated company) are held by or for the benefit of employees or directors of the company or a company controlled by the company, and
  - (b) those directors and employees are together able as holders of the shares to control the company.
- (3) Sections 839 (connected persons) and 840 (control) of the Taxes Act 1988 shall apply for the purposes of this Chapter.
- (4) Where a right to acquire shares or an interest in shares in a company is assigned to a person and the right was conferred on some other person by reason of the assignee’s office as a director of, or his employment by, that or any other company, the assignee shall be treated for the purposes of this Chapter as acquiring the shares or interest in pursuance of a right conferred on him by reason of that office or employment.

## **88 Transitional provisions.**

- (1) Section 138 of the Taxes Act 1988 and section 79 of the <sup>M64</sup>Finance Act 1972 shall not apply to an acquisition of shares, or of an interest in shares, made on or after 26th October 1987.
- (2) Where—
- (a) tax is chargeable by virtue of section 138(1)(a) of the Taxes Act 1988 or section 79(4) of the Finance Act 1972 by reference to the market value, after 26th October 1987, of shares in a company which is not a dependent subsidiary on that date, and
  - (b) that market value is greater than the market value of the shares on 26th October 1987,
- the amount on which tax is chargeable (and the question whether any tax is chargeable) shall be determined by reference to the market value on 26th October 1987 (and for this purpose “market value” has the same meaning as in section 138 of the Taxes Act 1988).
- (3) Subject to subsection (4) below, this Chapter, with the omission of sections 79 and 80, shall have effect where shares, or an interest in shares, in a company which is not a dependent subsidiary on 26th October 1987 have been acquired before that date as if

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has effect (apart from this section) where shares or an interest in shares are acquired on or after that date.

- (4) In relation to shares which were, or an interest in which was, acquired before 26th October 1987 the removal or variation of a restriction to which the shares are subject shall not be a chargeable event for the purposes of section 78 above if, because of paragraph 7 of Schedule 8 to the <sup>M65</sup>Finance Act 1973, the restriction would not have been regarded as one to which the shares were subject for the purposes of section 79(2) (c) of the <sup>M66</sup>Finance Act 1972.

#### Marginal Citations

- M64** 1972 c. 41.  
**M65** 1973 c. 51.  
**M66** 1972 c. 41.

## 89 Consequential amendments.

In relation to acquisitions of shares or interests in shares on or after 26th October 1987—

- (a) for the words from “section 138(1)(a)” to “value of the shares” in section 185(3)(a) (approved share option schemes) and section 186(2)(b) (approved profit sharing schemes) of the Taxes Act 1988, and
- (b) for the words from “section 79(4)” to “value of the shares” in—
- (i) section 53(3)(b) of the <sup>M67</sup>Finance Act 1978 (approved profit sharing schemes),
  - (ii) section 47(1)(b) of the <sup>M68</sup>Finance Act 1980 (savings-related share option schemes), and
  - (iii) section 38(3)(a) of the <sup>M69</sup>Finance Act 1984 (approved share option schemes),

there shall be substituted the words “ section 78 or 79 of the Finance Act 1988 in respect of the shares ”.

#### Marginal Citations

- M67** 1978 c. 42.  
**M68** 1980 c. 48.  
**M69** 1984 c. 43.

## CHAPTER III

### CAPITAL ALLOWANCES

**F2490** .....

*Status: Point in time view as at 27/07/1991.*

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**Textual Amendments**

**F24** S. 90 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(4)(5), **Sch. 2**.

**F25**<sup>91</sup> .....

**Textual Amendments**

**F25** S. 91 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(4)(5), **Sch. 2**.

**F26**<sup>92</sup> .....

**Textual Amendments**

**F26** S. 92 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(4)(5), **Sch. 2**.

**F27**<sup>93</sup> .....

**Textual Amendments**

**F27** S. 93 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(4)(5), **Sch. 2**.

**F28**<sup>94</sup> .....

**Textual Amendments**

**F28** S. 94 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(4)(5), **Sch. 2**.

**F29**<sup>95</sup> .....

**Textual Amendments**

**F29** S. 95 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(4)(5), **Sch. 2**.

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## CHAPTER IV

### CAPITAL GAINS

#### *Re-basing to 1982*

#### **96 Assets held on 31st March 1982.**

- (1) This section applies to a disposal on or after 6th April 1988 of an asset which was held on 31st March 1982 by the person making the disposal.
- (2) Subject to the following provisions of this section, in computing for the purpose of capital gains tax the gain or loss accruing on the disposal it shall be assumed that the asset was on 31st March 1982 sold by the person making the disposal, and immediately re-acquired by him, at its market value on that date.
- (3) Subject to subsection (5) below, subsection (2) above shall not apply to a disposal—
  - (a) where a gain would accrue on the disposal to the person making the disposal if that subsection did apply, and either a smaller gain or a loss would so accrue if it did not,
  - (b) where a loss would so accrue if that subsection did apply, and either a smaller loss or a gain would accrue if it did not,
  - (c) where, either on the facts of the case or by virtue of Schedule 5 to the <sup>M70</sup>Capital Gains Tax Act 1979, neither a gain nor a loss would accrue if that subsection did not apply, or
  - (d) where neither a gain nor a loss would accrue by virtue of any of the specified enactments.
- (4) Where in the case of a disposal of an asset—
  - (a) the effect of subsection (2) above would be to substitute a loss for a gain or a gain for a loss, but
  - (b) the application of subsection (2) is excluded by subsection (3),
 it shall be assumed in relation to the disposal that the asset was acquired by the person making the disposal for a consideration such that, on the disposal, neither a gain nor a loss accrues to him.
- (5) If a person so elects, disposals made by him (including any made by him before the election) shall fall outside subsection (3) above (so that subsection (2) above is not excluded by that subsection).
- (6) An election by a person under subsection (5) above shall be irrevocable and shall be made by notice in writing to the inspector at any time before 6th April 1990 or at any time during the period beginning with the day of the first relevant disposal and ending—
  - (a) two years after the end of the year of assessment or accounting period in which the disposal is made, or
  - (b) at such later time as the Board may allow;
 and “the first relevant disposal” means the first disposal to which this section applies which is made by the person making the election.
- (7) An election made by a person under subsection (5) above in one capacity does not cover disposals made by him in another capacity.

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- (8) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under subsection (5) above.
- (9) Schedule 8 to this Act (which contains provisions supplementary to this section) shall have effect; and in subsection (3)(d) above “specified enactments” means the enactments specified in paragraph 1(3) of that Schedule.

**Modifications etc. (not altering text)**

**C11** S. 96 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.13

**C12** S. 96(5) modified by Finance Act 1990 (c. 29, SIF 63:2), s. 63(4).

**Marginal Citations**

**M70** 1979 c. 14.

**97 Deferred charges on gains before 31st March 1982.**

Schedule 9 to this Act (which provides for the reduction of a deferred charge to tax where the charge is wholly or partly attributable to an increase in the value of an asset before 31st March 1982) shall have effect.

**Modifications etc. (not altering text)**

**C13** S. 97 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.13

*Unification of rates of tax on income and capital gains*

**98 Rates of capital gains tax.**

- (1) Subject to the provisions of this section and sections 99 and 100 below, the rate of capital gains tax in respect of gains accruing to a person in a year of assessment shall be equivalent to the basic rate of income tax for the year.
- (2) If income tax is chargeable at the higher rate in respect of any part of the income of an individual for a year of assessment, the rate of capital gains tax in respect of gains accruing to him in the year shall be equivalent to the higher rate.
- (3) If no income tax is chargeable at the higher rate in respect of the income of an individual for a year of assessment, but the amount on which he is chargeable to capital gains tax exceeds the unused part of his basic rate band, the rate of capital gains tax on the excess shall be equivalent to the higher rate of income tax for the year.
- (4) The reference in subsection (3) above to the unused part of an individual’s basic rate band is a reference to the amount by which the basic rate limit exceeds his total income (as reduced by any deductions made in accordance with the Income Tax Acts).

**99 Husband and wife.**

- (1) Where —

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- (a) gains accrue to a woman in a year of assessment during which she is a married woman living with her husband, and
  - (b) if her chargeable amount were added to, and constituted the highest part of, her husband's chargeable amount for the year, capital gains tax would be chargeable on it or any part of it at a rate equivalent to the higher rate of income tax for the year,
- the rate of capital gains tax on her chargeable amount or that part of it shall be equivalent to the higher rate.
- (2) For the purposes of this section a person's chargeable amount for a year of assessment is the amount on which he is (or would apart from section 45 of the <sup>M71</sup>Capital Gains Tax Act 1979 be) chargeable to capital gains tax for the year.
  - (3) In relation to a year of assessment for which an application under section 45(2) of the Capital Gains Tax Act 1979 (separate assessment) has effect, the amounts of tax payable by the husband and by the wife shall be determined by—
    - (a) aggregating the amounts that would be payable by each of them apart from this subsection, and
    - (b) dividing that aggregate between them in proportion to their chargeable amounts for the year.
  - (4) This section shall apply in relation to a part of a year of assessment, being a part beginning with 6th April, as it applies in relation to a whole year (except that references to a husband's chargeable amount are references to his chargeable amount for the whole year).
  - (5) This section shall have effect for the years 1988-89 and 1989-90 only.

#### Marginal Citations

M71 1979 c. 14.

### 100 Accumulation and discretionary settlements.

- (1) The rate of capital gains tax in respect of gains accruing to trustees of an accumulation or discretionary settlement in a year of assessment shall be equivalent to the sum of the basic and additional rates of income tax for the year.
- (2) For the purposes of subsection (1) above a trust is an accumulation or discretionary settlement where—
  - (a) all or any part of the income arising to the trustees in the year of assessment is income to which section 686 of the Taxes Act 1988 (liability to income tax at the additional rate) applies, or
  - (b) all the income arising to the trustees in the year of assessment is treated as the income of the settlor, but that section would apply to it if it were not so treated, or
  - (c) all the income arising to the trustees in the year of assessment is applied in defraying expenses of the trustees in that year, but that section would apply to it if it were not so applied, or
  - (d) no income arises to the trustees in the year of assessment, but that section would apply if there were income arising to the trustees and none of it were

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treated as the income of the settlor or applied as mentioned in paragraph (c) above.

## 101 Underwriters.

In subsection (2) of section 142 of the <sup>M72</sup>Capital Gains Tax Act 1979 (which provides for capital gains tax to be assessed and charged on the trustees of premiums trust funds of underwriters) for the words “subsection (3)” there shall be substituted the words “subsections (2A) and (3)”; and after subsection (2) there shall be inserted—

“(2A) Tax assessed by virtue of subsection (2) above for a year of assessment shall be assessed at a rate equivalent to the basic rate of income tax for the year; and if an assessment to tax at a higher rate is subsequently made on an underwriting member in respect of the same gains, an appropriate credit shall be given for the tax assessed on the trustees.”

### Marginal Citations

M72 1979 c. 14.

## 102 Other special cases.

(1) References in section 98 above to income tax chargeable at the higher rate include references to tax chargeable by virtue of section 683(1) or 684(1) of the Taxes Act 1988 (settlements) in respect of excess liability (that is, liability to income tax over what it would be if all income tax were charged at the basic rate to the exclusion of any higher rate); and where for any year of assessment income is treated by virtue of either of those provisions as the income of a person for the purposes of excess liability then, whether or not he is chargeable to tax otherwise than at the basic rate, it shall also be treated as his income for the purposes of section 98(4) above.

[<sup>F30</sup>(1A) References in section 98 above to income tax chargeable at the higher rate also include references to tax chargeable by virtue of section 353(4) or 369(3A) of that Act (restriction to basic rate of relief on certain interest etc) in respect of excess liability; and where for any year of assessment a deduction is by virtue of either of those provisions not allowed in computing the total income of a person for the purposes of excess liability then, whether or not he is chargeable to tax otherwise than at the basic rate, that deduction shall not be allowed for the purposes of section 98(4) above.]

(2) Where for any year of assessment—

- <sup>F31</sup>(a) . . . . .
- (b) by virtue of section 549(2) of that Act (gains under life policy or life annuity contract) a deduction of an amount is made from a person’s total income for those purposes,
- (c) by virtue of section 683(1) or 684(1) of that Act an amount of a person’s income is treated as not being his income for those purposes, or
- (d) by virtue of section 699(1) of that Act (income accruing before death) the residuary income of an estate is treated as reduced so as to reduce a person’s income by any amount for the purposes of excess liability,

section 98(4) above shall have effect as if his income for the year were reduced by that amount.

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- (3) Where by virtue of section 547(1)(a) of that Act (gains from insurance policies etc.) a person's total income for a year of assessment is deemed to include any amount or amounts—
- (a) section 98(4) above shall have effect as if his total income included not the whole of the amount or amounts concerned but only the appropriate fraction within the meaning of section 550(3), and
  - (b) if relief is given under section 550 of that Act and the calculation required by section 550(2)(b) does not involve the higher rate of income tax, section 98(2) and (3) above shall have effect as if no income tax were chargeable at the higher rate in respect of his income.
- (4) Nothing in subsection (1) [<sup>F32</sup>or (1A)] above shall be taken to reduce, and nothing in subsections (2) and (3) above shall be taken to increase, the amount of the deduction which a person is entitled to make from his total income by virtue of any provision of Chapter 1 of Part VII of the Taxes Act 1988 which limits any allowance by reference to the level of his total income.

#### Textual Amendments

- F30** S. 102(1A) inserted (25.07.1991 for year 1991-1992 and subsequent periods of assessment) by Finance Act 1991 (c. 31, SIF 63:1), s. 27(6), **Sch. 6 para. 6(1)**
- F31** S. 102(2)(a) repealed (for accounting periods beginning after 31.03.1989) by Finance Act 1989 (c. 26, SIF 63:1), s. 187(1), **Sch. 17 Pt. V** Note 6.
- F32** Words in s. 102(4) inserted (25.07.1991 for year 1991-1992 and subsequent periods of assessment) by Finance Act 1991 (c. 31, SIF 63:1), s. 27(6), **Sch. 6 para. 6(2)**

### 103 Commencement of sections 98 to 102.

Subject to section 99(5) above, sections 98 to 102 above shall have effect for the year 1988-89 and subsequent years of assessment.

#### *Married couples*

### 104 Married couples.

- (1) In the <sup>M73</sup>Capital Gains Tax Act 1979 —
- (a) section 4(2) (losses of one spouse deductible from gains of other),
  - (b) section 45 (assessment and charge of wife's gains on husband), and
  - (c) paragraphs 2 and 3 of Schedule 1 (special rules for annual exemption in case of married couple),
- shall cease to have effect.
- (2) Subsection (1) above shall have effect in relation to the year 1990-91 and subsequent years of assessment.
- (3) Where—
- (a) a claim under section 13 of the Capital Gains Tax Act 1979 (enforced delay in remitting gains from disposals of foreign assets) is made by a man in respect of chargeable gains accruing to his wife before 6th April 1990, and



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- (b) by virtue of that section the amount of the gains falls to be assessed to capital gains tax as if it were an amount of gains accruing in the year 1990-91 or a subsequent year of assessment,
- it shall be assessed not on the claimant (or his personal representatives) but on the person to whom the gains accrued (or her personal representatives).

#### Marginal Citations

M73 1979 c. 14.

### *Company migration*

#### **105 Deemed disposal of assets on company ceasing to be resident in U.K.**

- (1) This section and section 107 below apply to a company if, at any time (“the relevant time”), the company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent.
- (2) The company shall be deemed for all purposes of the <sup>M74</sup>Capital Gains Tax Act 1979—
- (a) to have disposed of all its assets, other than assets excepted from this subsection by subsection (4) below, immediately before the relevant time; and
- (b) immediately to have reacquired them,
- at their market value at that time.
- (3) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply where the company—
- (a) has disposed of the old assets, or of its interest in those assets, before the relevant time; and
- (b) acquires the new assets, or its interest in those assets, after that time,
- unless the new assets are excepted from this subsection by subsection (4) below.
- (4) If at any time after the relevant time the company carries on a trade in the United Kingdom through a branch or agency—
- (a) any assets which, immediately after the relevant time, are situated in the United Kingdom and are used in or for the purposes of the trade, or are used or held for the purposes of the branch or agency, shall be excepted from subsection (2) above; and
- (b) any new assets which, after that time, are so situated and are so used or so held shall be excepted from subsection (3) above;
- and references in this subsection to assets situated in the United Kingdom include references to exploration or exploitation assets and to exploration or exploitation rights.
- (5) In this section—
- “branch or agency” has the same meaning as in the Capital Gains Tax Act 1979;
- “designated area”, “exploration or exploitation activities” and “exploration or exploitation rights” have the same meanings as in section 38 of the <sup>M75</sup>Finance Act 1973;

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“exploration or exploitation assets” means assets used or intended for use in connection with exploration or exploitation activities carried on in the United Kingdom or a designated area;

“the old assets” and “the new assets” have the same meanings as in section 115 of the 1979 Act;

“Treasury consent” means a consent under section 765 of the Taxes Act 1988 or section 482 of the Taxes Act 1970 (restrictions on the migration etc. of companies) given for the purposes of subsection (1)(a) of that section;

and a company shall not be regarded for the purposes of this section as ceasing to be resident in the United Kingdom by reason only that it ceases to exist.

- (6) In section 765 of the Taxes Act 1988 and section 482 of the Taxes Act 1970, in subsection (1), paragraphs (a) and (b) shall cease to have effect and in paragraph (c) for the words “so resident” there shall be substituted the words “resident in the United Kingdom”; but nothing in this subsection shall affect the operation of either section in relation to—
- (a) an application for a Treasury consent made before the date of the coming into force of this section; or
  - (b) such a consent granted on an application so made.
- (7) This section and sections 106 and 107 below shall be deemed to have come into force on 15th March 1988.

#### **Marginal Citations**

**M74** 1979 c. 14.

**M75** 1973 c. 51.

### **106 Deemed disposal of assets on company ceasing to be liable to U.K. tax.**

- (1) This section and section 107 below apply to a company if, at any time (“the relevant time”), the company, while continuing to be resident in the United Kingdom, becomes a company which falls to be regarded for the purposes of any double taxation relief arrangements—
- (a) as resident in a territory outside the United Kingdom; and
  - (b) as not liable in the United Kingdom to tax on gains arising on disposals of assets of descriptions specified in the arrangements (“prescribed assets”).
- (2) The company shall be deemed for all purposes of the<sup>M76</sup>Capital Gains Tax Act 1979—
- (a) to have disposed of all its prescribed assets immediately before the relevant time; and
  - (b) immediately to have reacquired them, at their market value at that time.
- (3) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply where the new assets are prescribed assets and the company—
- (a) has disposed of the old assets, or of its interest in those assets, before the relevant time; and
  - (b) acquires the new assets, or its interest in those assets, after that time.
- (4) In this section—

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“double taxation relief arrangements” means arrangements having effect by virtue of section 497 of the Taxes Act 1970 or section 788 of the Taxes Act 1988 (as extended, in either case, to capital gains tax by section 10 of the Capital Gains Tax Act 1979);

“the old assets” and “the new assets” have the same meanings as in section 115 of the 1979 Act.

#### Marginal Citations

M76 1979 c. 14.

### 107 Postponement of charge on deemed disposal.

- (1) If—
- (a) immediately after the relevant time, a company to which this section applies by virtue of section 105 or 106 above (“the company”) is a 75 per cent. subsidiary of another company (“the principal company”) which is resident in the United Kingdom; and
  - (b) the principal company and the company so elect, by notice in writing given to the inspector within two years after that time,
- the Capital Gains Tax Act 1979 shall have effect in accordance with the following provisions.
- (2) Any allowable losses accruing to the company on a deemed disposal of foreign assets shall be set off against the chargeable gains so accruing and—
- (a) that disposal shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses; and
  - (b) the whole of that gain shall be treated as not accruing to the company on that disposal but an equivalent amount (“the postponed gain”) shall be brought into account in accordance with subsections (3) and (4) below.
- (3) If at any time within six years after the relevant time the company disposes of any assets (“relevant assets”) the chargeable gains on which were taken into account in arriving at the postponed gain, there shall be deemed to accrue to the principal company as a chargeable gain on that occasion the whole or the appropriate proportion of the postponed gain so far as not already taken into account under this subsection or subsection (4) below.

In this subsection “the appropriate proportion” means the proportion which the chargeable gain taken into account in arriving at the postponed gain in respect of the part of the relevant assets disposed of bears to the aggregate of the chargeable gains so taken into account in respect of the relevant assets held immediately before the time of the disposal.

- (4) If at any time after the relevant time—
- (a) the company ceases to be a 75 per cent. subsidiary of the principal company on the disposal by the principal company of ordinary shares of the company;
  - (b) after the company has ceased to be such a subsidiary otherwise than on such a disposal, the principal company disposes of such shares; or
  - (c) the principal company ceases to be resident in the United Kingdom,

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there shall be deemed to accrue to the principal company as a chargeable gain on that occasion the whole of the postponed gain so far as not already taken into account under this subsection or subsection (3) above.

(5) If at any time—

- (a) the company has allowable losses which have not been allowed as a deduction from chargeable gains; and
- (b) a chargeable gain accrues to the principal company under subsection (3) or (4) above,

then, if and to the extent that the principal company and the company so elect by notice in writing given to the inspector within two years after that time, those losses shall be allowed as a deduction from that gain.

(6) In this section—

“deemed disposal” means a disposal which, by virtue of section 105(2) or, as the case may be, section 106(2) above, is deemed to have been made;

“foreign assets” means any assets of the company which, immediately after the relevant time, are situated outside the United Kingdom and are used in or for the purposes of a trade carried on outside the United Kingdom;

“ordinary share” means a share in the ordinary share capital of the company;

“the relevant time” has the meaning given by section 105(1) or, as the case may be, section 106(1) above.

(7) For the purposes of this section a company is a 75 per cent. subsidiary of another company if and so long as not less than 75 per cent. of its ordinary share capital is owned directly by that other company.

#### *Miscellaneous*

### **108 Annual exempt amount for 1988-89.**

For the year 1988-89 section 5 of the <sup>M77</sup>Capital Gains Tax Act 1979 (annual exempt amount) shall have effect as if the amount specified in subsection (1A) were £5,000; and accordingly subsection (1B) of that section (indexation) shall not apply for that year.

#### **Marginal Citations**

**M77** 1979 c. 14.

### **109 Gains arising from certain settled property.**

Schedule 10 to this Act (taxation of gains arising from settled property in which the settlor or his spouse has an interest) shall have effect.

### **110 Retirement relief.**

(1) In sub-paragraph (1) of paragraph 13 of Schedule 20 to the <sup>M78</sup>Finance Act 1985 (amount available for relief to be a percentage of £125,000 varying with length of

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qualifying period) for the words “a percentage of £125,000” there shall be substituted the words “an amount equal to the aggregate of—

- (a) so much of the gains qualifying for relief as do not exceed the appropriate percentage of £125,000; and
- (b) one half of so much of those gains as exceed the appropriate percentage of £125,000 but do not exceed that percentage of £500,000;

and for the purposes of this sub-paragraph “the appropriate percentage” is a percentage”.

(2) After that sub-paragraph there shall be inserted—

“(1A) In sub-paragraph (1) above “the gains qualifying for relief” means, in relation to any qualifying disposal, so much of the gains accruing on that disposal (aggregated under paragraph 6, 7(1)(a) or 8(1)(a) above) as would, by virtue of this Schedule, not be chargeable gains if—

- (a) sub-paragraph (1) above had specified as the amount available for relief a fixed sum in excess of those aggregate gains; and
- (b) paragraphs 14 to 16 below were disregarded.”

(3) In paragraph 15 of that Schedule (limit on relief available on later disposal where relief given on earlier disposal) in sub-paragraph (2) (definition of later and earlier disposals) for the words “In sub-paragraph (3) below” there shall be substituted the words “In the following provisions of this paragraph”.

(4) In sub-paragraph (3)(a) of that paragraph, for the words “if the qualifying period appropriate to that disposal” there shall be substituted—

- “(i) if the gains qualifying for relief on that disposal were increased by the amount of the underlying gains relieved on the earlier disposal (or the aggregate amount of the underlying gains relieved on all the earlier disposals, as the case may be); and
- (ii) if the qualifying period appropriate to the later disposal”

(5) After sub-paragraph (3) of that paragraph there shall be inserted—

“(3A) Where there is only one earlier disposal, or where there are two or more such disposals but none of them took place on or after 6th April 1988, then, for the purposes of sub-paragraph (3)(a)(i) above—

- (a) if the earlier disposal took place on or after 6th April 1988, the amount of the underlying gains relieved on that disposal is the aggregate of—
  - (i) so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13(1)(a) above, not chargeable gains; and
  - (ii) twice the amount of so much of those gains as were, by virtue of paragraph 13(1)(b) above, not chargeable gains; and
- (b) if the earlier disposal took place before 6th April 1988, the amount of the underlying gains relieved on that disposal (or on each such disposal) is so much of the gains qualifying for relief on that disposal as were, by virtue of paragraph 13 above, not chargeable gains.

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- (3B) Where there are two or more earlier disposals and at least one of them took place on or after 6th April 1988, then, for the purposes of sub-paragraph (3)(a)(i) above, the aggregate amount of the underlying gains relieved on all those disposals shall be determined as follows—
- (a) it shall be assumed for the purposes of paragraph (b) below—
    - (i) that the amount which resulted from the calculation under sub-paragraph (3)(a) above on the last of those disposals (“the last disposal”) was the amount of the gains qualifying for relief on that disposal which were, by virtue of this Schedule, not chargeable gains (the “gains actually relieved”);
    - (ii) that the qualifying period appropriate to that disposal (as redetermined where appropriate under paragraph 14 above) was that period as extended in accordance with sub-paragraph (3)(a)(ii) above; and
    - (iii) that the last disposal was the only earlier disposal;
  - (b) there shall then be ascertained in accordance with paragraph 13(1) above (but on the assumptions in paragraph (a) above)—
    - (i) how much of the gains actually relieved would, by virtue of paragraph 13(1)(a) above, not have been chargeable gains; and
    - (ii) how much of those gains would, by virtue of paragraph 13(1)(b) above, not have been chargeable gains; and
  - (c) the aggregate amount of the underlying gains relieved on all the earlier disposals is the sum of—
    - (i) the amount ascertained under paragraph (b)(i) above; and
    - (ii) twice the amount ascertained under paragraph (b)(ii) above.
- (3C) In this paragraph “the gains qualifying for relief” has the meaning given by paragraph 13(1A) above.”
- (6) In sub-paragraph (4) of that paragraph (cases where relief on earlier disposal given under certain former enactments) for the words from the beginning of paragraph (b) to “the qualifying period appropriate to the disposal is” there shall be substituted the words—
- “(b) for the purpose of determining the limit in sub-paragraph (3) above where the earlier disposal (or any of the earlier disposals) was a disposal in respect of which relief was given under either of those sections—
    - (i) the underlying gains relieved on that disposal shall (subject to sub-paragraph (3B) above) be taken to be gains of an amount equal to the relief given under the section in question in respect of that disposal; and
    - (ii) the reference in sub-paragraph (3)(a)(ii) above to the qualifying period appropriate to the earlier disposal shall be construed in accordance with paragraph (c) below;
  - (c) for the purpose mentioned in paragraph (b) above, that reference shall, as respects the earlier disposal in question, be taken to be”
- (7) In paragraph 16 of that Schedule (aggregation of spouse’s interest in the business)—
- (a) in sub-paragraph (3), for the words “whichever is the lower of the two limits” there shall be substituted the words “the limit”;

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- (b) in sub-paragraph (4), for the words “limits” and “are” there shall be substituted the words “limit” and “is” (respectively) and paragraph (a) shall be omitted; and
  - (c) sub-paragraph (5) shall be omitted.
- (8) This section shall have effect with respect to qualifying disposals (within the meaning of that Schedule) occurring on or after 6th April 1988.

**Marginal Citations**

M78 1985 c. 54.

**111 Dependent relative’s residence.**

- (1) Section 105 of the <sup>M79</sup>Capital Gains Tax Act 1979 shall not apply to disposals on or after 6th April 1988.
- (2) Subsection (1) above shall not have effect where, on 5th April 1988 or at any earlier time during the period of ownership of the individual making the disposal, the dwelling-house or part in question was the sole residence (provided rent-free and without any other consideration) of a dependent relative of his.
- (3) If in a case within subsection (2) above the dwelling-house or part ceases, whether before 6th April 1988 or later, to be the sole residence (provided as mentioned above) of the dependent relative, any subsequent period of residence beginning on or after that date by that or any other dependent relative shall be disregarded for the purposes of section 105(2) of the Capital Gains Tax Act 1979.

**Marginal Citations**

M79 1979 c. 14.

**112 Roll-over relief.**

- (1) In section 118 of the Capital Gains Tax Act 1979 (classes of assets for the purposes of roll-over relief)—
  - (a) after Class 2 there shall be inserted—

“(Class Satellites, space stations and spacecraft (including launch vehicles).”,  
2A) and
  - (b) after Class 3 there shall be inserted—

“(Class 4) Milk quotas (that is, rights to sell dairy produce without being liable to pay milk levy or to deliver dairy produce without being liable to pay a contribution to milk levy) and potato quotas (that is, rights to produce potatoes without being liable to pay more than the ordinary contribution to the Potato Marketing Board’s fund).”
- (2) Subsection (1)(a) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) takes place on or after 28th July 1987; and subsection (1)(b) above shall apply where the disposal of the

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old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) takes place on or after 30th October 1987.

### 113 Indexation: building societies etc.

- (1) The provisions specified in subsection (2) below (which provide for an indexation allowance on the disposal of assets) shall not apply in the case of—
  - (a) shares in a building society within the meaning of the <sup>M80</sup>Building Societies Act 1986, or
  - (b) shares in a registered industrial and provident society as defined in section 486 of the Taxes Act 1988.
- (2) The provisions referred to in subsection (1) above are—
  - (a) in the <sup>M81</sup>Finance Act 1982, sections 86(4) and 87 and, in Schedule 13, paragraphs 1 to 7, 8(2)(c) and 10(3); and
  - (b) in the <sup>M82</sup>Finance Act 1985, section 68(4) to (8) and, in Schedule 19, paragraphs 1(3), 2, 5, 7(3), 8(1)(b) and (c), 11 to 15, 18, 22 and 23.
- (3) This section shall apply to disposals on or after 4th July 1987.

#### Marginal Citations

**M80** 1986 c. 53.

**M81** 1982 c. 39.

**M82** 1985 c. 54.

### 114 Indexation: groups and associated companies.

Schedule 11 to this Act (which makes provision removing or restricting indexation allowance in the case of certain disposals by companies of debts or shares) shall have effect.

### 115 Transfers within a group.

- (1) In section 273 of the Taxes Act 1970 (which treats certain intra-group transactions as producing neither a gain nor a loss) after subsection (2) there shall be inserted—
 

“(2A) Subsection (1) above shall not apply to a transaction treated by virtue of sections 78 and 85 of the Capital Gains Tax Act 1979 as not involving a disposal by the company first mentioned in that subsection.”
- (2) This section shall apply to transactions on or after 15th March 1988.

### 116 Personal equity plans.

The following subsection shall be inserted after subsection (2) of section 149D of the Capital Gains Tax Act 1979—

“(2A) Regulations under this section may include provision securing that losses are disregarded for the purposes of capital gains tax where they accrue on the disposal of investments on or after 18th January 1988.”



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## 117 Definition of “investment trust”.

- (1) In section 842 of the Taxes Act 1988 (definition of “investment trust”)—
- (a) before paragraph (a) of subsection (1) there shall be inserted—
    - “(aa) that the company is resident in the United Kingdom; and”
  - (b) for paragraph (c) of that subsection there shall be substituted—
    - “(c) that the shares making up the company’s ordinary share capital (or, if there are such shares of more than one class, those of each class) are quoted on the Stock Exchange; and”;
    - and
  - (c) after that subsection there shall be inserted—
    - “(1A) For the purposes of paragraph (b) of subsection (1) above and the other provisions of this section having effect in relation to that paragraph—
      - (a) holdings in companies which are members of a group (whether or not including the investing company) and are not excluded from that paragraph shall be treated as holdings in a single company; and
      - (b) where the investing company is a member of a group, money owed to it by another member of the group shall be treated as a security of the latter held by the investing company and accordingly as, or as part of, the holding of the investing company in the company owing the money;
    - and for the purposes of this subsection “group” means a company and all companies which are its 51 per cent. subsidiaries.”
- (2) The repeal by the <sup>M83</sup>Finance (No. 2) Act 1987 of section 93 of the <sup>M84</sup>Finance Act 1972 shall be treated as not having extended to subsection (6) of that section (amendment of definition of “investment trust” in section 359 of the Taxes Act 1970).
- (3) For section 266(4) of the <sup>M85</sup>Companies Act 1985 there shall be substituted—
- “(4) Subsections (1A) to (3) of section 842 of the Income and Corporation Taxes Act 1988 apply for the purposes of subsection (2)(b) above as for those of subsection (1)(b) of that section.”; and for Article 274(4) of the <sup>M86</sup>Companies (Northern Ireland) Order 1986 there shall be substituted—
  - “(4) Subsections (1A) to (3) of section 842 of the Income and Corporation Taxes Act 1988 apply for the purposes of paragraph (2)(b) as for those of subsection (1)(b) of that section.”
- (4) Subsections (1) and (3) above shall have effect for companies’ accounting periods ending after 5th April 1988 and subsection (2) above shall have effect for companies’ accounting periods ending on or before that date.

### Marginal Citations

- M83** 1987 c. 51.
- M84** 1972 c. 41.
- M85** 1985 c. 6.
- M86** S.I. 1986/1032 (N.I. 6).

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## 118 Amendments of Finance Act 1985 s.68.

- (1) In relation to disposals on or after 6th April 1988 section 68 of the <sup>M87</sup>Finance Act 1985 (indexation allowance) shall have effect subject to the following amendments.
- (2) The following subsection shall be inserted after subsection (5)—
  - “(5A) If under subsection (4) above it is to be assumed that any asset was on 31st March 1982 sold by the person making the disposal and immediately re-acquired by him, sections 34 and 39 of the Capital Gains Tax Act 1979 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by him in providing the asset as if it were made in respect of expenditure which, on that assumption, was incurred by him in re-acquiring the asset on 31st March 1982.”
- (3) In subsection (7) for the words from “section 267” to “1983” there shall be substituted “any of the enactments specified in subsection (7A) below”.
- (4) The following subsection shall be inserted after that subsection—
  - “(7A) The enactments mentioned in subsection (7) above are—
    - (a) sections 44, 56, 123A, 146(3), 147(4), 148 and 149A of the Capital Gains Tax Act 1979;
    - (b) sections 267, 273, 340(7), 342, 342A, 342B, 343(5) and 352(7) of the Income and Corporation Taxes Act 1970;
    - (c) section 148 of the Finance Act 1982;
    - (d) section 7 of the Finance (No.2) Act 1983;
    - (e) paragraph 2 of Schedule 2 to the Trustee Savings Banks Act 1985;
    - (f) section 486(8) of the Taxes Act; and
    - (g) paragraph 4 of Schedule 12 to the Finance Act 1988.”

### Marginal Citations

M87 1985 c. 54.

## CHAPTER V

### MANAGEMENT

#### *Assessment*

## 119 Current year assessments.

- (1) Section 29 of the <sup>M88</sup>Taxes Management Act 1970 (assessment procedure) shall have effect subject to the following amendments.
- (2) In subsection (1), after paragraph (b) there shall be added—
  - “(c) where income tax is charged for a year of assessment in respect of income arising in that year, the inspector may make an assessment during that year to the best of his judgment, by reference to actual income or estimated income (whether from any particular source or

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generally) or partly by reference to one and partly by reference to the other.”

(3) After subsection (1) there shall be inserted—

“(1A) Where an assessment is made by virtue of subsection (1)(c) above, any necessary adjustments shall be made after the end of the year (whether by way of assessment, repayment of tax or otherwise) to secure that tax is charged in respect of income actually arising in the year.”

#### Marginal Citations

M88 1970 c. 9.

### *Returns of income and gains*

#### **120 Notice of liability to income tax.**

(1) For section 7 of the Taxes Management Act 1970 there shall be substituted—

##### **“7 Notice of liability to income tax.**

- (1) Every person who is chargeable to income tax for any year of assessment and has neither—
  - (a) delivered a return of his profits or gains or his total income for that year, nor
  - (b) received a notice under section 8 of this Act requiring such a return, shall, subject to subsections (2) to (5) below, within twelve months from the end of that year, give notice to the inspector that he is so chargeable, specifying each separate source of income.
- (2) A source of income is excluded for the purposes of subsection (1) above in relation to any year of assessment if—
  - (a) all payments of, or on account of, income from it during that year, and
  - (b) all income from it for that year which does not consist of payments, have or has been taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.
- (3) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year has been assessed or has been taken into account—
  - (a) in determining that person’s liability to tax, or
  - (b) in the making of deductions or repayments of tax under section 203 of the principal Act.
- (4) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year is—
  - (a) income from which income tax has been deducted;

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- (b) income from or on which income tax is treated as having been deducted or paid (not being income consisting of a payment to which section 559 of the principal Act applies); or
  - (c) income chargeable under Schedule F,
- and that person is not for that year liable to tax at a rate other than basic rate.
- (5) A person shall not be required to give notice under subsection (1) above in respect of a year of assessment if and to the extent that his total income for that year consists of income from sources—
- (a) which are excluded under subsections (2) to (4) above, or
  - (b) in respect of income from which he could not become liable to tax under assessments made more than twelve months after the end of that year.
- (6) If any person, for any year of assessment, fails to comply with subsection (1) above as respects any source of income, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of income from that source for that year, under assessments made more than twelve months after the end of that year.
- (7) In the case of a partner, the reference in subsection (6) above to the tax for which he is liable in respect of income from any source does not include a reference to tax assessable in the name of the partnership on so much of the income from that source as falls to be included in the total income of any other person.”
- (2) This section has effect with respect to notices required to be given for the year 1988-89 or any subsequent year of assessment.

## **121 Notice of liability to corporation tax.**

- (1) For section 10 of the <sup>M89</sup>Taxes Management Act 1970 there shall be substituted—

### **“10 Notice of liability to corporation tax.**

- (1) Every company which is chargeable to corporation tax for any accounting period and has neither—
- (a) made a return of its profits for that period, nor
  - (b) received a notice under section 11 of this Act requiring such a return,
- shall, within twelve months from the end of that period, give notice to the inspector that it is so chargeable.
- (2) If any company, for any accounting period ending on or before the appointed day, fails to comply with subsection (1) above, it shall be liable to a penalty not exceeding the amount of the corporation tax for which it is liable, in respect of its profits for that period, under assessments made more than twelve months after the end of that period.
- (3) If any company, for any accounting period ending after the appointed day, fails to comply with subsection (1) above, it shall be liable to a penalty not exceeding the amount by which so much of the corporation tax chargeable on its profits for that period as remains unpaid twelve months after the end of that

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period exceeds any income tax borne by deduction from payments included in those profits.

(4) In determining—

- (a) for the purposes of subsection (2) above, for how much corporation tax a company is liable, in respect of its profits for an accounting period, under assessments made more than twelve months after the end of that period; or
- (b) for the purposes of subsection (3) above, how much of the corporation tax chargeable on the profits of a company for an accounting period remained unpaid at the time of any failure to comply with subsection (1) above,

no account shall be taken of the discharge of any liability for that tax which, pursuant to a claim under subsection (3) of section 239 of the principal Act, is attributable to an amount of surplus advance corporation tax, as defined in that subsection.

(5) In this section “the appointed day” means the day appointed for the purposes of section 8(3) of the principal Act.”

(2) This section has effect with respect to notices required to be given in respect of accounting periods ending after 31st March 1989.

#### Marginal Citations

M89 1970 c. 9.

## 122 Notice of liability to capital gains tax.

(1) Immediately before section 12 of the <sup>M90</sup>Taxes Management Act 1970 there shall be inserted—

### “11A Notice of liability to capital gains tax.

- (1) Every person who is chargeable to capital gains tax for any year of assessment and has neither—
  - (a) delivered a return of his chargeable gains for that year, nor
  - (b) received a notice under section 8 of this Act requiring such a return,shall, within twelve months from the end of that year, give notice to the inspector that he is so chargeable; but a person all of whose chargeable gains for a year of assessment have been assessed shall not be required to give notice under this subsection in respect of that year.
- (2) If any person, for any year of assessment, fails to comply with subsection (1) above, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of his chargeable gains for that year, under assessments made more than twelve months after the end of that year.
- (3) In this section references to a person’s chargeable gains for a year of assessment include, if section 45(1) of the Capital Gains Tax Act 1979 applies in relation to him and his wife in that year, her chargeable gains for that year.”

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- (2) For subsection (1) of section 12 of that Act (information about chargeable gains) there shall be substituted—
- “(1) Section 8 of this Act shall apply in relation to capital gains tax as it applies in relation to income tax, and subject to any necessary modifications.”
- (3) This section has effect with respect to notices required to be given for the year 1988-89 or any subsequent year of assessment.

**Marginal Citations**

**M90** 1970 c. 9.

*Other returns and information*

**123 Three year time limit.**

- (1) At the end of section 13 of the <sup>M91</sup>Taxes Management Act 1970 (returns by persons in receipt of taxable income belonging to others) there shall be added—
- “(3) A notice under this section shall not require information as to any money, value, profits or gains received in a year of assessment ending more than three years before the date of the giving of the notice.”
- (2) In section 17(1) of that Act (interest paid or credited by banks etc. without deduction of income tax) after the words “during a year” there shall be inserted the words “ of assessment ”.
- (3) In section 18 of that Act (particulars of interest paid without deduction of income tax) after subsection (3) there shall be inserted—
- “(3A) A notice under this section shall not require information with respect to interest paid in a year of assessment ending more than three years before the date of the giving of the notice.”
- (4) At the end of section 19 of that Act (information for the purposes of Schedule A etc.) there shall be added—
- “(4) A notice under this section shall not require information with respect to—
- (a) the terms applying to the lease, occupation or use of the land, or
  - (b) consideration given, or
  - (c) payments arising,
- in a year of assessment ending more than three years before the date of the giving of the notice.”
- (5) This section has effect with respect to notices given after the passing of this Act.

**Marginal Citations**

**M91** 1970 c. 9.

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*Status: Point in time view as at 27/07/1991.*

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## **124 Returns of fees, commissions etc.**

- (1) At the end of section 16 of the Taxes Management Act 1970 (fees, commissions etc.) there shall be added—

“(8) In subsection (2) above references to a body of persons include references to any department of the Crown, any public or local authority and any other public body.”

- (2) This section has effect with respect to payments made in the year 1988-89 or any subsequent year of assessment.

## **125 Other payments and licences etc.**

After section 18 of the Taxes Management Act 1970 there shall be inserted—

### **“18A Other payments and licences etc.**

- (1) Any person by whom any payment out of public funds is made by way of grant or subsidy shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—
- (a) the name and address of the person to whom the payment has been made or on whose behalf the payment has been received, and
  - (b) the amount of the payment so made or received,
- and any person who receives any such payment on behalf of another person shall on being so required furnish to the inspector the name and address of the person on whose behalf the payment has been received, and its amount.
- (2) Any person by whom licences or approvals are issued or a register is maintained shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—
- (a) the name and address of any person who is or has been the holder of a licence or approval issued by the first-mentioned person, or to whom an entry in that register relates or related; and
  - (b) particulars of the licence or entry.
- (3) The persons to whom this section applies include any department of the Crown, any public or local authority and any other public body.
- (4) A notice is not to be given under this section unless (in the inspector’s reasonable opinion) the information required is or may be relevant to any tax liability to which a person is or may be subject, or the amount of any such liability.
- (5) A notice under this section shall not require information with respect to a payment which was made, or to a licence, approval or entry which ceased to subsist—
- (a) before 6th April 1988; or
  - (b) in a year of assessment ending more than three years before the date of the giving of the notice.
- (6) For the purposes of this section a payment is a payment out of public funds if it is provided directly or indirectly by the Crown, by any Government, public

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or local authority whether in the United Kingdom or elsewhere or by any Community institution.”

*Production of accounts, books etc.*

## **126 Production of documents relating to a person’s tax liability.**

<sup>F33</sup>(1) .....

(2) In subsection (7) of that section, for the words “this section”, in the first place where they occur, there shall be substituted the words “ subsection (1) or (3) above ”.

(3) After subsection (8) of that section there shall be inserted—

“(8A) If, on an application made by an inspector and authorised by order of the Board, a Special Commissioner gives his consent, the inspector may give such a notice as is mentioned in subsection (3) above but without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied—

- (a) that the notice relates to a taxpayer whose identity is not known to the inspector or to a class of taxpayers whose individual identities are not so known;
- (b) that there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Taxes Acts;
- (c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and
- (d) that the information which is likely to be contained in the documents to which the notice relates is not readily available from another source.

(8B) A person to whom there is given a notice under subsection (8A) above may, by notice in writing given to the inspector within thirty days after the date of the notice under that subsection, object to that notice on the ground that it would be onerous for him to comply with it; and if the matter is not resolved by agreement, it shall be referred to the Special Commissioners, who may confirm, vary or cancel that notice.”

(4) In section 20B of that Act—

- (a) in subsection (1), for the words “section 20(1) or (3)” there shall be substituted the words “ section 20(1), (3) or (8A) ” and for the words “section 20(7)” there shall be substituted the words “ section 20(7) or (8A) ”; and
- (b) in subsections (2), (4), (8) <sup>F34</sup> . . . , after the words “section 20(3)”, in each place where they occur, there shall be inserted the words “ or (8A) ”.

(5) In consequence of the amendment made by subsection (1) above, at the end of section 12(3) of the <sup>M92</sup>National Savings Bank Act 1971 (provisions which override prohibition on disclosure of information) there shall be added the words “ and of section 20(4)(b) of that Act (persons who may be required to produce documents relating to liability of taxpayer arising from business) ”.

(6) The amendments made by this section have effect with respect to notices given after the passing of this Act.



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#### Textual Amendments

- F33** S. 126(1) repealed(*with respect to notices given, or warrants issued on or after 27.07.1989*) by Finance Act 1989 (c. 26, SIF 63:1), s. 187(1), **Sch. 17 Pt. VIII** Note 2.
- F34** Words in s. 126(4)(b) repealed(*with respect to notices given, or warrants issued on or after 27.07.1989*) by Finance Act 1989 (c. 26, SIF 63:1), s. 187(1), **Sch. 17 Pt. VIII** Note 2.

#### Marginal Citations

- M92** 1971 c. 29.

### 127 Production of computer records etc.

- (1) Any provision made by or under the Taxes Acts which requires a person—
- (a) to produce, furnish or deliver any document or cause any document to be produced, furnished or delivered; or
  - (b) to permit the Board, or an inspector or other officer of the Board—
    - (i) to inspect any document, or
    - (ii) to make or take extracts from or copies of or remove any document,
- shall have effect as if any reference in that provision to a document were a reference to a document within the meaning of Part I of the <sup>M93</sup>Civil Evidence Act 1968; and, accordingly, any reference in such a provision to a copy of a document shall be construed in accordance with section 10(2) of that Act.
- (2) In connection with tax, a person authorised by the Board to exercise the powers conferred by this subsection—
- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with any document to which this subsection applies; and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been so used, or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus, or material,
- to afford him such reasonable assistance as he may require for the purposes of paragraph (a) above.
- (3) Subsection (2) above applies to any document, within the meaning of Part I of the Civil Evidence Act 1968, which a person is or may be required by or under any provision of the Taxes Acts—
- (a) to produce, furnish or deliver, or cause to be produced, furnished or delivered; or
  - (b) to permit the Board, or an inspector or other officer of the Board, to inspect, make or take extracts from or copies of or remove.
- (4) Any person who—
- (a) obstructs a person authorised under subsection (2) above in the exercise of his powers under paragraph (a) of that subsection, or
  - (b) fails to comply within a reasonable time with a requirement under paragraph (b) of that subsection,

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shall be liable to a penalty not exceeding £500.

- (5) In the application of this section to Scotland and Northern Ireland, references in this section to Part I of the <sup>M94</sup>Civil Evidence Act 1968 and section 10(2) of that Act shall be construed—
- (a) in the case of Scotland, as references to Part III of the <sup>M95</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 and section 17(4) of that Act respectively; and
  - (b) in the case of Northern Ireland, as references to Part I of the <sup>M96</sup>Civil Evidence Act (Northern Ireland) 1971 and section 6(2) of that Act respectively.
- (6) This section shall be construed as if it were contained in the <sup>M97</sup>Taxes Management Act 1970.

#### Marginal Citations

- M93** 1968 c. 64.  
**M94** 1968 c. 64.  
**M95** 1968 c. 70.  
**M96** 1971 c. 36 (N.I.).  
**M97** 1970 c. 9.

### *Interest and penalties*

#### **128 Interest on overdue or overpaid PAYE.**

- (1) In subsection (2) of section 203 of the Taxes Act 1988 (pay as you earn), for paragraph (d) there shall be substituted—
- “(d) for requiring the payment of interest on sums due to the Board which are not paid by the due date, for determining the date (being not less than 14 days after the end of the year of assessment in respect of which the sums are due) from which such interest is to be calculated and for enabling the repayment or remission of such interest;
  - (dd) for requiring the payment of interest on sums due from the Board and for determining the date (being not less than one year after the end of the year of assessment in respect of which the sums are due) from which such interest is to be calculated;”
- (2) At the end of that section there shall be added—
- “(9) Interest required to be paid by regulations under subsection (2) above shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.”

#### **129 Two or more tax-gearred penalties in respect of same tax.**

- (1) After section 97 of the Taxes Management Act 1970 there shall be inserted—

##### **“97A Two or more tax-gearred penalties in respect of same tax.**

Where two or more penalties—

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- (a) are incurred by any person and fall to be determined by reference to any income tax or capital gains tax with which he is chargeable for a year of assessment; or
- (b) are incurred by any company and fall to be determined by reference to any corporation tax with which it is chargeable for an accounting period,

each penalty after the first shall be so reduced that the aggregate amount of the penalties, so far as determined by reference to any particular part of the tax, does not exceed whichever is or, but for this section, would be the greater or greatest of them, so far as so determined.”

- (2) Section 97A(a) of that Act has effect with respect to the year 1988-89 or any subsequent year of assessment; and section 97A(b) has effect with respect to accounting periods ending after 31st March 1989.

#### *Company migration*

### **130 Provisions for securing payment by company of outstanding tax.**

- (1) The requirements of subsections (2) and (3) below must be satisfied before a company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent.
- (2) The requirements of this subsection are satisfied if the company gives to the Board—
  - (a) notice of its intention to cease to be resident in the United Kingdom, specifying the time (“the relevant time”) when it intends so to cease;
  - (b) a statement of the amount which, in its opinion, is the amount of the tax which is or will be payable by it in respect of periods beginning before that time; and
  - (c) particulars of the arrangements which it proposes to make for securing the payment of that tax.
- (3) The requirements of this subsection are satisfied if—
  - (a) arrangements are made by the company for securing the payment of the tax which is or will be payable by it in respect of periods beginning before the relevant time; and
  - (b) those arrangements as so made are approved by the Board for the purposes of this subsection.
- (4) If any question arises as to the amount which should be regarded for the purposes of subsection (3) above as the amount of the tax which is or will be payable by the company in respect of periods beginning before the relevant time, that question shall be referred to the Special Commissioners, whose decision shall be final.
- (5) If any information furnished by the company for the purpose of securing the approval of the Board under subsection (3) above does not fully and accurately disclose all facts and considerations material for the decision of the Board under that subsection, any resulting approval of the Board shall be void.
- (6) In this section “Treasury consent” means a consent under section 765 of the Taxes Act 1988 (restrictions on the migration etc. of companies) given for the purposes of subsection (1)(a) of that section.

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- (7) In this section and sections 131 and 132 below any reference to the tax payable by a company includes a reference to—
- (a) any amount of tax which it is liable to pay under regulations made under section 203 of the Taxes Act 1988 (PAYE);
  - (b) any income tax which it is liable to pay in respect of payments to which section 350(4)(a) of that Act (company payments which are not distributions) applies;
  - (c) any amount representing income tax which it is liable to pay under—
    - (i) regulations made under section 476(1) of that Act (building societies);
    - (ii) section 479 of that Act (interest paid on deposits with banks etc.); or
    - (iii) section 555 of that Act (entertainers and sportsmen);
  - (d) any amount which it is liable to pay under section 559(4) of that Act (sub-contractors in the construction industry); and
  - (e) any amount which it is liable to pay under paragraph 4 of Schedule 15 to <sup>M98</sup> Finance Act 1973 (territorial extension of charge of tax).
- (8) In this section and section 132 below any reference to the tax payable by a company in respect of periods beginning before any particular time includes a reference to any interest on the tax so payable, or on tax paid by it in respect of such periods, which it is liable to pay in respect of periods beginning before or after that time.
- (9) In this section and sections 131 and 132 below any reference to a provision of the Taxes Act 1988 shall be construed, in relation to any time before 6th April 1988, as a reference to the corresponding enactment repealed by that Act.
- (10) This section and sections 131 and 132 below shall be deemed to have come into force on 15th March 1988.

**Modifications etc. (not altering text)**

**C14** S. 130(1)-(6) excluded (3.5.1994 with application as mentioned in s. 249(5) of the amending Act) by 1994 c. 9, ss. 249, 250(1)

**Marginal Citations**

**M98** 1973 c. 51.

**131 Penalties for failure to comply with section 130.**

- (1) If a company fails to comply with section 130 above at any time, it shall be liable to a penalty not exceeding the amount of tax which is or will be payable by it in respect of periods beginning before that time and which has not been paid at that time.
- (2) If, in relation to a company (“the migrating company”), any person does or is party to the doing of any act which to his knowledge amounts to or results in, or forms part of a series of acts which together amount to or result in, or will amount to or result in, the migrating company failing to comply with section 130 above at any time and either—
  - (a) that person is a person to whom subsection (3) below applies; or
  - (b) the act in question is a direction or instruction given (otherwise than by way of advice given by a person acting in a professional capacity) to persons to whom that subsection applies,

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that person shall be liable to a penalty not exceeding the amount of tax which is or will be payable by the migrating company in respect of periods beginning before that time and which has not been paid at that time.

- (3) This subsection applies to the following persons, namely—
- (a) any company which has control of the migrating company; and
  - (b) any person who is a director of the migrating company or of a company which has control of the migrating company.
- (4) In any proceedings against any person to whom subsection (3) above applies for the recovery of a penalty under subsection (2) above—
- (a) it shall be presumed that he was party to every act of the migrating company unless he proves that it was done without his consent or connivance; and
  - (b) it shall, unless the contrary is proved, be presumed that any act which in fact amounted to or resulted in, or formed part of a series of acts which together amounted to or resulted in, or would amount to or result in, the migrating company failing to comply with section 130 above was to his knowledge such an act.
- (5) References in this section to a company failing to comply with section 130 above are references to the requirements of subsections (2) and (3) of that section not being satisfied before the company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent; and in this subsection “Treasury consent” has the same meaning as in that section.
- (6) In this section and section 132 below “director”, in relation to a company—
- (a) has the meaning given by subsection (8) of section 168 of the Taxes Act 1988 (read with subsection (9) of that section); and
  - (b) includes any person falling within subsection (5) of section 417 of that Act (read with subsection (6) of that section);
- and any reference to a person having control of a company shall be construed in accordance with section 416 of that Act.

**Modifications etc. (not altering text)**

**C15** S. 131(1)-(5) excluded (3.5.1994 with application as mentioned in s. 249 of the amending Act) by 1994 c. 9, ss. 249, 250(1)

**132 Liability of other persons for unpaid tax.**

- (1) This section applies where—
- (a) a company (“the migrating company”) ceases to be resident in the United Kingdom at any time; and
  - (b) any tax which is payable by the migrating company in respect of periods beginning before that time is not paid within six months from the time when it becomes payable.
- (2) The Board may, at any time before the end of the period of three years beginning with the time when the amount of the tax is finally determined, serve on any person to whom subsection (3) below applies a notice—

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- (a) stating particulars of the tax payable, the amount remaining unpaid and the date when it became payable; and
  - (b) requiring that person to pay that amount within thirty days of the service of the notice.
- (3) This subsection applies to the following persons, namely—
- (a) any company which is, or within the relevant period was, a member of the same group as the migrating company; and
  - (b) any person who is, or within the relevant period was, a controlling director of the migrating company or of a company which has, or within that period had, control over the migrating company.
- (4) Any amount which a person is required to pay by a notice under this section may be recovered from him as if it were tax due and duly demanded of him; and he may recover any such amount paid by him from the migrating company.
- (5) A payment in pursuance of a notice under this section shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (6) In this section—
- “controlling director”, in relation to a company, means a director of the company who has control of it;
  - “group” has the meaning which would be given by section 272 of the Taxes Act 1970 if in that section references to residence in the United Kingdom were omitted and for references to 75 per cent. subsidiaries there were substituted references to 51 per cent. subsidiaries;
  - “the relevant period” means—
- (a) where the time when the migrating company ceases to be resident in the United Kingdom is less than twelve months after 15th March 1988, the period beginning with that date and ending with that time;
  - (b) in any other case, the period of twelve months ending with that time.

*Appeals etc.*

### **133 Jurisdiction of General Commissioners.**

- (1) After subsection (1) of section 44 of the <sup>M99</sup>Taxes Management Act 1970 (General Commissioners) there shall be inserted—
- “(1A) Subject to subsections (1B) and (2) below, the Board may direct that, notwithstanding the said rules, proceedings before the General Commissioners under the Taxes Acts of any description specified in the direction shall be brought before the General Commissioners for the division so specified in relation to proceedings of that description.
- (1B) A direction under subsection (1A) above shall have effect subject to the provisions referred to in the last paragraph of Schedule 3 to this Act and shall not apply to any proceedings if—
- (a) the inspector has not served on the other party a notice stating the effect of the direction in relation to those proceedings;

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- (b) that party has served on the inspector, within thirty days of the service of the inspector’s notice, a notice objecting to the direction so applying; or
  - (c) in the case of an appeal, that party has elected under rule 3 or 5 of the said rules for the place where he ordinarily resides.”
- (2) For subsection (2) of that section there shall be substituted—
- “(2) Where—
- (a) the parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners have agreed, whether before or after the institution of the proceedings, that the proceedings shall be brought before the General Commissioners for a division specified in the agreement; and
  - (b) in the case of an agreement made before the time of the institution of the proceedings, neither party has determined that agreement by a notice served on the other party before that time,
- the proceedings shall be brought before the General Commissioners for the division so specified, notwithstanding the said rules and any direction under subsection (1A) above.”
- (3) The amendment made by subsection (1) above shall have effect in relation to proceedings instituted on or after 1st January 1989; and the amendment made by subsection (2) above shall have effect in relation to proceedings instituted after the passing of this Act.

#### Marginal Citations

M99 1970 c. 9.

### 134 General Commissioners for Northern Ireland.

- (1) In section 2 of the <sup>M100</sup>Taxes Management Act 1970 (General Commissioners)—
- (a) in subsection (1), after the words “who shall act for the same separate areas in Great Britain as heretofore” there shall be inserted the words “or for the separate areas in Northern Ireland defined by an order made by the Lord Chancellor”, and
  - (b) in subsection (2), after the words “England and Wales” there shall be inserted the words “or Northern Ireland”.
- (2) Section 58(1) of that Act (references in Taxes Acts to General Commissioners to be taken in relation to proceedings in Northern Ireland as references to Special Commissioners or, where section 59 applies, a county court) and section 59 of that Act (right in Northern Ireland to bring before a county court certain proceedings which in Great Britain may be brought before General Commissioners) shall cease to have effect.
- (3) In sections 260(3) and 281(4) of the Taxes Act 1988 (and the corresponding enactments repealed by that Act) and in section 11(4) of the Taxes Act 1970 (Special Commissioners to act instead of General Commissioners where taxpayers not resident in Great Britain) for the words “Great Britain” there shall be substituted the words “the United Kingdom”.

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- (4) This section and section 135 below shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (5) Subject to the following provisions of this section, the preceding provisions of this section and section 135(2) below shall not affect any proceedings instituted before the day appointed under subsection (4) above.
- (6) Subject to subsection (8) below, where—
- (a) before the day appointed under subsection (4) above proceedings in Northern Ireland have been instituted before the Special Commissioners but not determined by them, and
  - (b) the proceedings might have been instituted before the General Commissioners if they had been proceedings in Great Britain,
- they shall be transferred to the General Commissioners; and subsection (3) of section 58 of the <sup>M101</sup>Taxes Management Act 1970 shall apply for the purposes of this subsection as for those of that section (the reference to proceedings in Great Britain being construed accordingly).
- (7) Section 44 of that Act shall apply in relation to proceedings transferred to the General Commissioners under subsection (6) above as it applies to proceedings instituted before them; and in the case of an appeal so transferred a notice of election under rule 3 or 5 of Schedule 3 to that Act may be given at any time before the end of the period of thirty days beginning with the day appointed under subsection (4) above.
- (8) Subsection (6) above shall not apply in relation to proceedings if—
- (a) before the end of that period an election that the proceedings be not transferred is made by any of the parties to the proceedings and written notice of the election is given to the other parties to the proceedings, or
  - (b) they are proceedings under section 100 of the Taxes Management Act 1970 (recovery of penalties);
- but subsections (5A) to (5E) of section 31 of that Act shall apply in relation to an election under paragraph (a) of this subsection in respect of an appeal against an assessment or the decision of an inspector on a claim as they apply in relation to an election under subsection (4) of that section.
- (9) The Lord Chancellor may by order made by statutory instrument make provision supplementing or modifying the effect of subsections (5) to (8) above; and an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Subordinate Legislation Made

**P2** S. 134(4) power fully exercised: 03.04.1989 appointed by S.I. 1989/473, art. 2.

#### Commencement Information

**I2** S. 134 wholly in force at 03.04.1989 see s. 134(4) and S.I. 1989/473, art. 2.

#### Marginal Citations

**M100** 1970 c. 9.

**M101** 1970 c. 9.



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### 135 Cases stated in Northern Ireland.

(1) In section 58 of the <sup>M102</sup>Taxes Management Act 1970 after subsection (2) (cases stated in proceedings in Northern Ireland to be cases for the opinion of the Court of Appeal in Northern Ireland) there shall be inserted—

“(2A) Where in proceedings in Northern Ireland an application is made for a case to be stated by the Commissioners under section 56 of this Act the case must be settled and sent to the applicant as soon after the application as is reasonably practicable.”

(2) For subsection (3) of that section there shall be substituted—

“(3) For the purposes of this section—

- (a) “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland;
- (b) proceedings under section 102, 113(5), 260(3), 281(4), 343(10) or 783(9) of the principal Act (or the corresponding enactments repealed by that Act), section 11 of or paragraph 22 of Schedule 7 to the Income and Corporation Taxes Act 1970 or section 81 of the Capital Allowances Act 1968 (proceedings to which more than one taxpayer is a party) shall be proceedings in Northern Ireland if the place given by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland,

and sections 21 and 22 of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section.”

#### Commencement Information

I3 S. 135 wholly in force at 03.04.1989 see s. 134(4) and S.I. 1989/473, art. 2.

#### Marginal Citations

M102 1970 c. 9.

## PART IV

### MISCELLANEOUS AND GENERAL

#### *Inheritance tax*

### 136 Reduction of rates.

(1) For the Table in Schedule 1 to the <sup>M103</sup>Inheritance Tax Act 1984 there shall be substituted—

“ TABLE OF RATES OF TAX

*Portion of value*

*Rate of tax*

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<i>Lower limit</i>	<i>Upper limit</i>	<i>Per cent.</i>
£	£	
0	110,000	Nil
110,000		40”

(2) Subsection (1) above shall apply to any chargeable transfer made on or after 15th March 1988, and section 8(1) of the <sup>M104</sup>Inheritance Tax Act 1984 (indexation of rate bands) shall not apply to chargeable transfers made in the year beginning 6th April 1988.

(3) Section 8(1A) of that Act shall cease to have effect.

**Marginal Citations**

M103 1984 c. 51.

M104 1984 c. 51.

**137 Gifts to political parties.**

(1) In section 24(1) of the Inheritance Tax Act 1984 (exemption from tax for gifts to political parties) paragraph (b) (which limits the exemption to £100,000 in respect of gifts on or within one year of the death of the transferor) shall cease to have effect.

(2) This section shall have effect in relation to transfers of value made on or after 15th March 1988.

*Petroleum revenue tax*

**138 Reduced oil allowance for certain Southern Basin and onshore fields.**

(1) For every relevant Southern Basin or onshore field, as defined in subsection (2) below, section 8 of the <sup>M105</sup>Oil Taxation Act 1975 (the oil allowance) shall have effect subject to the following modifications—

- (a) in subsection (2) (the amount of the allowance for each chargeable period) for “250,000 metric tonnes” there shall be substituted “ 125,000 metric tonnes ”; and
- (b) in subsection (6) (the total allowance for a field) for “5 million metric tonnes” there shall be substituted “ 25 million metric tonnes ”.

(2) Subject to subsection (3) below, for the purposes of this section a “relevant Southern Basin or onshore field” is any oil field other than one—

- (a) which is a relevant new field for the purposes of section 36 of the <sup>M106</sup>Finance Act 1983 (increased oil allowance for certain new fields); or
- (b) for any part of which consent for development was granted to the licensee by the Secretary of State before 1st April 1982; or
- (c) for any part of which a programme of development was served on the licensee or approved by the Secretary of State before that date.

(3) In determining, in accordance with subsection (2) above, whether an oil field (in this subsection referred to as “the field in question”) is a relevant Southern Basin or

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onshore field, no account shall be taken of a consent for development granted before 1st April 1982 or a programme of development served on the licensee or approved by the Secretary of State before that date if—

- (a) in whole or in part that consent or programme related to another oil field for which a determination under Schedule 1 to the <sup>M107</sup>Oil Taxation Act 1975 was made before the determination under that Schedule for the field in question; and
  - (b) on or after 1st April 1982, a consent for development is or was granted or a programme of development is or was served on the licensee or approved by the Secretary of State and that consent or programme relates, in whole or in part, to the field in question.
- (4) Subsections (4) and (5) of section 36 of the Finance <sup>M108</sup>Act 1983 (which define “development” for the purposes of subsections (2) and (3) of that section) shall apply also for the purposes of subsections (2) and (3) of this section.
- (5) This section shall have effect in relation to chargeable periods ending after 30th June 1988.
- (6) This section shall be construed as one with Part I of the <sup>M109</sup> Oil Taxation Act 1975.

#### **Marginal Citations**

**M105** 1975 c. 22.  
**M106** 1983 c. 28.  
**M107** 1975 c. 22.  
**M108** 1983 c. 28.  
**M109** 1975 c. 22.

### **139** <sup>X2</sup>**Assets generating tariff receipts: extension of allowable expenditure.**

- (1) In Part I of Schedule 1 to the <sup>M110</sup>Oil Taxation Act 1983 (extensions of allowable expenditure for assets generating receipts) paragraph 3 (expenditure on enhancing the value of assets no longer in use for the principal field) shall be amended as follows—
- (a) in sub-paragraph (1)(a) after the words “enhancing the value of” there shall be inserted “ or otherwise in connection with ”;
  - (b) in sub-paragraph (1)(d) for the words “the expenditure” there shall be substituted “ either the use of the asset ” and after the words “tariff receipts or” there shall be inserted “ the expenditure ”.
- (2) This section shall have effect with respect to expenditure incurred on or after 15th March 1988.

#### **Editorial Information**

**X2** The text of s. 139 is in the form in which it was originally enacted; it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M110** 1983 c. 56.

*Status: Point in time view as at 27/07/1991.*

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*Stamp duty and stamp duty reserve tax*

**140 Abolition of stamp duty under the heading “Unit Trust Instrument”.**

- (1) The stamp duty chargeable by virtue of the heading in Schedule 1 to the <sup>M111</sup>Stamp Act 1891 “Unit Trust Instrument” is abolished; and accordingly that heading and the following enactments, namely—
- (a) section 53 of the <sup>M112</sup>Finance Act 1946;
  - (b) section 24 of the <sup>M113</sup>Finance (No. 2) Act (Northern Ireland) 1946;
  - (c) section 30 of the <sup>M114</sup>Finance Act 1962; and
  - (d) section 3 of the <sup>M115</sup>Finance Act (Northern Ireland) 1962,
- shall cease to have effect.
- (2) Subsection (1) above shall have effect in relation to—
- (a) any trust instrument executed on or after 22nd March 1988;
  - (b) any trust instrument executed on or after 16th March 1988 which is not stamped before 22nd March 1988;
  - (c) any property becoming trust property on or after 22nd March 1988; and
  - (d) any property becoming trust property on or after 16th March 1988 in respect of which the trust instrument is not stamped before 22nd March 1988.
- (3) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of execution), the law in force—
- (a) at the time of execution of a trust instrument falling within subsection (2)(b) above; or
  - (b) on the day on which property falling within subsection (2)(d) above becomes trust property,
- shall be deemed to be that as varied in accordance with this section.
- (4) In this section “trust instrument” and “trust property” have the meanings given by section 57 of the Finance Act 1946 or section 28 of the Finance (No. 2) Act (Northern Ireland) 1946.
- (5) This section shall be construed as one with the Stamp Act 1891.
- (6) This section shall be deemed to have come into force on 22nd March 1988.

**Marginal Citations**

- M111** 1891 c. 39.  
**M112** 1946 c. 64.  
**M113** 1946 c. 17 (N.I.).  
**M114** 1962 c. 44.  
**M115** 1962 c. 17 (N.I.).

**141 Abolition of stamp duty on documents relating to transactions of capital companies.**

- (1) The stamp duties chargeable by virtue of section 47 of the <sup>M116</sup>Finance Act 1973 and Article 8 of the <sup>M117</sup>Finance (Miscellaneous Provisions) (Northern Ireland) Order 1973

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(stamp duties on documents relating to chargeable transactions of capital companies) are abolished; and accordingly—

- (a) that section, section 48 of that Act and Schedule 19 to that Act; and
  - (b) that Article, Article 9 of that Order and Schedule 2 to that Order,
- shall cease to have effect.

(2) Subsection (1) above shall have effect in relation to—

- (a) any transaction occurring on or after 22nd March 1988;
- (b) any transaction occurring on or after 16th March 1988 in respect of which the relevant document is not stamped before 22nd March 1988;
- (c) any exempt transaction occurring before 22nd March 1988 in respect of which a relevant event occurs on or after 22nd March 1988; and
- (d) any exempt transaction occurring before 16th March 1988 in respect of which a relevant event occurs on or after 16th March 1988 and the relevant duty is not paid before 22nd March 1988.

(3) For the purposes of section 14(4) of the <sup>M118</sup>Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of execution), the law in force—

- (a) in a case falling within subsection (2)(b) above, at the time of execution of the relevant document ; or
- (b) in a case falling within subsection (2)(d) above, on the day on which the relevant event occurs,

shall be deemed to be that as varied in accordance with this section.

(4) In this section—

“exempt transaction” means a transaction which is exempt by virtue of paragraph 10(1) of Schedule 19 to the <sup>M119</sup>Finance Act 1973;

“relevant document” has the meaning given by section 47 of that Act;

“relevant duty” means the duty payable under paragraph 10(4) of Schedule 19 to that Act;

“relevant event” means such an event as is mentioned in paragraph 10(3) (a) or (b) of Schedule 19 to that Act,

and any reference in this subsection to section 47 of or Schedule 19 to that Act includes a reference to Article 8 of or Schedule 2 to the <sup>M120</sup>Finance (Miscellaneous Provisions) (Northern Ireland) Order 1973.

(5) This section shall be construed as one with the Stamp Act 1891.

(6) This section shall be deemed to have come into force on 22nd March 1988.

#### **Marginal Citations**

**M116** 1973 c. 51.

**M117** S.I. 1973/1323 (N.I. 18).

**M118** 1891 c. 39.

**M119** 1973 c. 51.

**M120** S.I. 1973/1323 (N.I. 18).

*Status: Point in time view as at 27/07/1991.*

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## 142 Stamp duty: housing action trusts.

- (1) In section 97 of the <sup>M121</sup>Finance Act 1980 (shared ownership transactions) after paragraph (c) of subsection (3) there shall be inserted—
  - “(cc) a housing action trust established under Part III of the Housing Act 1988;”
- (2) In section 107 of the <sup>M122</sup>Finance Act 1981 (sales at a discount by local authorities etc.) after paragraph (f) of subsection (3) there shall be inserted—
  - “(ff) a housing action trust established under Part III of the Housing Act 1988;”

### Marginal Citations

[M121 1980 c. 48.](#)

[M122 1981 c. 35.](#)

## 143 Stamp duty: paired shares

- (1) This section applies where —
  - (a) the articles of association of a company incorporated in the United Kingdom (“the UK company”) and the equivalent instruments governing a company which is not so incorporated (“the foreign company”) each provide that no share in the company to which they relate may be transferred otherwise than as part of a unit comprising one share in that company and one share in the other; and
  - (b) such units are to be or have been offered for sale to the public in the United Kingdom and, at the same time, an equal number of such units are to be or, as the case may be, have been offered for sale to the public at a broadly equivalent price in the country in which the foreign company is incorporated (“the foreign country”).
- (2) In relation to an instrument to which subsection (3) below applies, any duty chargeable on issue under the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891 (which, apart from this subsection, would be payable by virtue of section 60 of the Finance Act 1963 or section 9 of the Finance Act (Northern Ireland) 1963) shall not be so payable; but nothing in this subsection shall be taken as affecting the other requirements of that section.
- (3) This subsection applies to any bearer instrument issued on or after 1st November 1987 which represents shares in the UK company, or a right to an allotment of or to subscribe for such shares, if the purpose of the issue is —
  - (a) to make such shares available for sale (as part of such units as are referred to in subsection (1) above) in pursuance of either of the offers referred to in subsection (1)(b) above or of any other offer for sale of such units to the public made at the same time and at a broadly equivalent price in a country other than the United Kingdom or the foreign country; or
  - (b) to give effect to an allotment of such shares (as part of such units) as fully or partly paid bonus shares.
- (4) In relation to an instrument to which subsection (5) below applies —
  - (a) the foreign company shall be treated —

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- (i) for the purposes of sections 59 and 60 of the Finance Act 1963 (which make provision in respect of stamp duty under the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891) as a company formed or established in Great Britain; and
    - (ii) for the purposes of sections 8 and 9 of the Finance Act (Northern Ireland) 1963 (which make corresponding provision for Northern Ireland) as a company formed or established in Northern Ireland; and
  - (b) section 30 of the Finance Act 1967 and section 7 of the Finance Act (Northern Ireland) 1967 (exemption for bearer instruments relating to stock in foreign currencies) shall not apply.
- (5) This subsection applies to any bearer instrument issued on or after 9th December 1987 which represents shares in the foreign company, or a right to an allotment of or to subscribe for such shares, and is not issued for the purpose —
- (a) of making shares in the foreign company available for sale (as part of such units as are referred to in subsection (1) above) in pursuance of either of the offers referred to in subsection (1)(b) above or of any other offer such as is mentioned in subsection (3)(a) above; or
  - (b) of giving effect to an allotment of such shares (as part of such units) as fully or partly paid bonus shares.
- (6) In relation to any instrument which transfers such units as are referred to in subsection (1) above and is executed on or after the date of the passing of this Act, the foreign company shall be treated for the purposes of sections 67 and 68 (depository receipts) and 70 and 71 (clearance services) of the Finance Act 1986 as a company incorporated in the United Kingdom.
- (7) Section 3 of the Stamp Act 1891 (which requires every instrument written upon the same piece of material as another instrument to be separately stamped) shall not apply in relation to any bearer instrument issued on or after 9th December 1987 which represents shares in the UK company or the foreign company, or a right to an allotment of or to subscribe for such shares.
- (8) This section shall be construed as one with the Stamp Act 1891.
- (9) Subsections (2) and (3) above, together with subsection (1) above so far as relating to them, shall be deemed to have come into force on 1st November 1987, and subsections (4), (5) and (7) above, together with subsection (1) above so far as relating to them, shall be deemed to have come into force on 9th December 1987.

**Modifications etc. (not altering text)**

C16 S. 143 modified (26.7.1990) by [Finance Act 1990 \(c. 29\)](#) s. 112

**144 Stamp duty reserve tax: paired shares etc**

- (1) Section 99 of the Finance Act 1986 (stamp duty reserve tax: interpretation) shall be amended as follows.
- (2) For subsections (3) to (6) there shall be substituted —
  - “(3) Subject to the following provisions of this section, “chargeable securities” means —

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- (a) stocks, shares or loan capital,
  - (b) interests in, or in dividends or other rights arising out of, stocks, shares or loan capital,
  - (c) rights to allotments of or to subscribe for, or options to acquire, stocks, shares or loan capital, and
  - (d) units under a unit trust scheme.
- (4) “Chargeable securities” does not include securities falling within paragraph (a), (b) or (c) of subsection (3) above which are issued or raised by a body corporate not incorporated in the United Kingdom unless —
- (a) they are registered in a register kept in the United Kingdom by or on behalf of the body corporate by which they are issued or raised, or
  - (b) in the case of shares, they are paired with shares issued by a body corporate incorporated in the United Kingdom, or
  - (c) in the case of securities falling within paragraph (b) or (c) of subsection (3) above, paragraph (a) or (b) above applies to the stocks, shares or loan capital to which they relate.
- (5) “Chargeable securities” does not include —
- (a) securities the transfer of which is exempt from all stamp duties, or
  - (b) securities falling within paragraph (b) or (c) of subsection (3) above which relate to stocks, shares or loan capital the transfer of which is exempt from all stamp duties.
- (6) “Chargeable securities” does not include interests in depositary receipts for stocks or shares.
- (6A) For the purposes of subsection (4) above, shares issued by a body corporate which is not incorporated in the United Kingdom (“the foreign company”) are paired with shares issued by a body corporate which is so incorporated (“the UK company”) where —
- (a) the articles of association of the UK company and the equivalent instruments governing the foreign company each provide that no share in the company to which they relate may be transferred otherwise than as part of a unit comprising one share in that company and one share in the other, and
  - (b) such units have been offered for sale to the public in the United Kingdom and, at the same time, an equal number of such units have been offered for sale to the public at a broadly equivalent price in the country in which the foreign company is incorporated.”
- (3) In subsection (9), after the word “Unit” there shall be inserted the words “ (except in subsection (6A) above) ”.
- (4) In subsection (10), for paragraph (a) there shall be substituted —
- “(a) paragraph (a) of subsection (4) above and the reference to that paragraph in paragraph (c) of that subsection shall be ignored, and”.
- (5) After subsection (10) there shall be added —
- “(11) In interpreting “chargeable securities” in section 93 or 96 above in a case where —
- (a) newly subscribed shares, or



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- (b) securities falling within paragraph (b) or (c) of subsection (3) above which relate to newly subscribed shares,  
are issued in pursuance of an arrangement such as is mentioned in that section (or an arrangement which would be such an arrangement if the securities issued were chargeable securities), paragraph (b) of subsection (4) above and the reference to that paragraph in paragraph (c) of that subsection shall be ignored.
- (12) In subsection (11) above, “newly subscribed shares” means shares issued wholly for new consideration in pursuance of an offer for sale to the public.”
- (6) This section applies in relation to —
- (a) agreements to transfer chargeable securities (within the meaning of section 99 of the Finance Act 1986 as amended by this section) made on or after 9th December 1987; and
  - (b) the transfer, issue or appropriation of such securities, or the issue of securities such as are mentioned in subsection (11) of that section, on or after that date in pursuance of an arrangement such as is mentioned in that subsection (whenever the arrangement was made),
- and shall be deemed to have come into force on that date.

#### *Miscellaneous*

### **145 Building societies: change of status.**

Schedule 12 to this Act (which makes provision in connection with the transfer of a building society’s business to a company in accordance with the <sup>M123</sup>Building Societies Act 1986) shall have effect.

#### **Marginal Citations**

**M123** 1986 c. 53.

### **146 Post-consolidation amendments.**

The enactments specified in Schedule 13 to this Act shall have effect subject to the amendments specified in that Schedule (being amendments to correct errors in the Taxes Act 1988 and in the amendments made by the <sup>M124</sup>Finance Act 1987 for the purposes of the consolidation effected by the Taxes Act 1988).

#### **Marginal Citations**

**M124** 1987 c. 16.

### **147 Interpretation etc.**

- (1) In this Act “the Taxes Act 1970” means the <sup>M125</sup>Income and Corporation Taxes Act 1970 and “the Taxes Act 1988” means the <sup>M126</sup>Income and Corporation Taxes Act 1988.

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- (2) Part II of this Act shall be construed as one with the <sup>M127</sup>Value Added Tax Act 1983.
- (3) Part III of this Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts and, so far as it relates to capital gains tax, shall be construed as one with the <sup>M128</sup>Capital Gains Tax Act 1979.

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**Marginal Citations**

**M125** 1970 c. 10.

**M126** 1988 c. 1.

**M127** 1983 c. 55.

**M128** 1979 c. 14.

**148 Repeals.**

The enactments specified in Schedule 14 to this Act (which include unnecessary enactments) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

**149 Short title.**

This Act may be cited as the Finance Act 1988.

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### ALCOHOLIC LIQUOR DUTIES

##### PART I

###### TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

<i>Description of wine or made-wine</i>	<i>Rates of duty per hectolitre</i>
	£
Wine or made-wine of a strength not exceeding 15 per cent. and not being sparkling	102.40
Sparkling wine or sparkling made-wine of a strength not exceeding 15 per cent.	169.10
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 18 per cent.	176.60
Wine or made-wine of a strength exceeding 18 per cent. but not exceeding 22 per cent.	203.70
Wine or made-wine of a strength exceeding 22 per cent.	203.70 plus £15.77 for every 1 per cent. or part of 1 per cent. in excess of 22 per cent.

##### PART II

###### BEVERAGES OF AN ALCOHOLIC STRENGTH NOT EXCEEDING 5.5 PER CENT.

- 1 (1) In subsection (2) of section 1 of the <sup>M129</sup>Alcoholic Liquor Duties Act 1979 (definition of “spirits”), for the words “subsections (7) and (8)” there shall be substituted the words “subsections (7) to (9)”.
- (2) In subsection (3) of that section (definition of “beer”)—
  - (a) the words “thereof at any time” shall cease to have effect; and
  - (b) in paragraph (b), for the words from “at any time” to “and to be” there shall be substituted the words “is found to be”.
- (3) In subsection (5) of that section (definition of “made-wine”), after the word “means” there shall be inserted the words “subject to subsection (10) below”.
- (4) After subsection (8) of that section there shall be inserted—

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“(9) Any beverage of an alcoholic strength exceeding 1.2 per cent. but not exceeding 5.5 per cent. which is made with spirits and is not of a description specified in an order made by the Treasury by statutory instrument shall be deemed not to be spirits.

(10) The Treasury may by order made by statutory instrument provide that any beverage of an alcoholic strength exceeding 1.2 per cent. but not exceeding 5.5 per cent. which is made with beer or cider and is of a description specified in the order shall be deemed to be beer or, as the case may be, cider, and not to be made-wine.”

#### Marginal Citations

M129 1979 c. 4.

- 2 (1) In section 45 of that Act (repayment of duty on beer used in the production of other beverages etc.), for the words from “in the production” to the end of paragraph (b) there shall be substituted—

“(a) in the production of any beverage of an alcoholic strength not exceeding 1.2 per cent.;

(b) in the production in an excise warehouse of any beverage of an alcoholic strength exceeding 1.2 per cent. but not exceeding 5.5 per cent.; or

(c) in the manufacture of any such article (other than a beverage) as the Commissioners may determine having regard to its alcoholic content,”

- (2) That section shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted—

“(2) Any duty chargeable on imported beer of a strength not exceeding 1.2 per cent. may be remitted subject to such conditions as the Commissioners may impose.”

- 3 After subsection (3) of section 52 of that Act (offences by brewers for sale) there shall be inserted—

“(3A) Nothing in this section shall be taken to preclude the use of beer as an ingredient in the production—

(a) of made-wine to which section 55A below applies; or

(b) of any beverage of an alcoholic strength exceeding 1.2 per cent. but not exceeding 5.5 per cent. which is of a description specified in an order made under section 1(10) above.”

- 4 After subsection (4) of section 54 of that Act (wine: charge of excise duty) there shall be inserted—

“(4A) A person who, on any premises, produces wine to which section 55A below applies by rendering it sparkling, need not on that account hold an excise licence under subsection (2) above in respect of those premises.”

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- 5 (1) After subsection (4) of section 55 of that Act (made-wine: charge of excise duty), there shall be inserted—

“(4A) A person who, on any premises, produces made-wine to which section 55A below applies by rendering it sparkling, need not on that account hold an excise licence under subsection (2) above in respect of those premises.”

- (2) In subsection (5) of that section, for the words “render any made-wine sparkling” there shall be substituted the words “render sparkling any made-wine other than made-wine to which section 55A below applies”.

- 6 After section 55 of that Act there shall be inserted—

**“55A Wine and made-wine of a strength not exceeding 5.5 per cent.**

- (1) This section applies to wine and made-wine of a strength exceeding 1.2 per cent. but not exceeding 5.5 per cent.

- (2) The Commissioners may by regulations provide that, except in such cases and subject to such conditions as may be specified by or under the regulations, no wine or made-wine to which this section applies may be fortified at any time—

(a) after it leaves the entered or approved premises on which it was produced, or

(b) in the case of wine or made-wine produced outside the United Kingdom, after it is imported into the United Kingdom,

and before it is sold by retail or otherwise supplied for consumption.

- (3) Any person who contravenes or fails to comply with any regulation under this section (including any conditions imposed by or under any such regulation) shall be liable on summary conviction to a penalty of level 3 on the standard scale, and the wine or made-wine and all vessels, utensils and materials for fortifying wine or made-wine found in his possession shall be liable to forfeiture.”

- 7 In section 59 of that Act (rendering imported wine or made-wine sparkling in warehouse), for subsection (1) there shall be substituted—

“(1) Wine or made-wine which—

(a) is imported or is removed to the United Kingdom from the Isle of Man; and

(b) is not wine or made-wine of a strength exceeding 1.2 per cent. but not exceeding 5.5 per cent.,

shall not be rendered sparkling, whether by aeration, fermentation or any other process, except in warehouse in accordance with warehousing regulations.”

- 8 After subsection (1) of section 60 of that Act (repayment of duty on imported wine or made-wine used in the production of other beverages etc.) there shall be inserted—

“(1A) Any duty chargeable on imported wine or made-wine of a strength not exceeding 1.2 per cent. may be remitted subject to such conditions as the Commissioners may impose.”

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- 9 Section 63 of that Act (repayment of duty on imported cider used in the production of other beverages etc.) shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted—

“(2) Any duty chargeable on imported cider of a strength not exceeding 1.2 per cent. may be remitted subject to such conditions as the Commissioners may impose.”

- 10 At the end of subsection (1) of section 71 of that Act (penalty for misdescribing liquor as spirits), there shall be added the words “or that the liquor is made with spirits and is a made-wine to which section 55A above applies”.

- 11 In section 72 of that Act (offences by wholesaler or retailer of beer), in subsection (3), after the words “for domestic use” there shall be inserted the words “or for use as mentioned in subsection (3A) below” and after that subsection there shall be inserted—

“(3A) The use referred to in subsection (3) above is use as an ingredient in the production—

- (a) of made-wine to which section 55A above applies; or
- (b) of any beverage of an alcoholic strength exceeding 1.2 per cent. but not exceeding 5.5 per cent. which is of a description specified in an order made under section 1(10) above.”

- 12 At the end of subsection (1) of section 73 of that Act (penalty for misdescribing substances as beer), there shall be added the words “or that the substance is made with beer and is a made-wine to which section 55A above applies”.

- 13 In Schedule 1 to that Act, for the Table of rates of duty there shall be substituted—

“Wine or made-wine of a strength not exceeding 2 per cent.	£ 10.24
Wine or made-wine of a strength exceeding 2 per cent. but not exceeding 3 per cent.	17.07
Wine or made-wine of a strength exceeding 3 per cent. but not exceeding 4 per cent.	23.89
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5 per cent.	30.72
Wine or made-wine of a strength exceeding 5 per cent. but not exceeding 5.5 per cent.	37.55
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	102.40

*Status: Point in time view as at 27/07/1991.*

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Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	169.10
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 18 per cent.	176.60
Wine or made-wine of a strength exceeding 18 per cent. but not exceeding 22 per cent.	203.70
Wine or made-wine of a strength exceeding 22 per cent.	203.70plus £15.77 for every 1 per cent. or part of 1 per cent. in excess of 22 per cent.”

SCHEDULE 2

Section 4.

VEHICLES EXCISE DUTY

PART I

TABLES SUBSTITUTED IN PART II OF SCHEDULE 4 TO THE 1971 AND 1972 ACTS

Table A

RATES OF DUTY ON RIGID GOODS VEHICLES  
 EXCEEDING 12 TONNES PLATED GROSS WEIGHT

General Rates

<i>Plated gross weight of vehicle</i>		<i>Rate of duty</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Exceeding</i>	<i>Not Exceeding</i>	<i>Two axle vehicle</i>	<i>Three axle vehicle</i>	<i>Four or more axle vehicle</i>
<i>tonnes</i>	<i>tonnes</i>	£	£	£
12	13	410	320	320
13	14	570	340	340
14	15	740	340	340
15	17	1,130	340	340
17	19		540	340
19	21		730	340
21	23		1,000	490
23	25		1,780	690
25	27			1,110

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27	29	1,630
29	30.49	2,680

Table A(1)

**RATES OF DUTY ON RIGID GOODS VEHICLES  
EXCEEDING 12 TONNES PLATED GROSS WEIGHT**

## Rates for Farmers' Goods Vehicles

<i>Plated gross weight of vehicle</i>		<i>Rate of duty</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Exceeding</i>	<i>Not Exceeding</i>	<i>Two axle vehicle</i>	<i>Three axle vehicle</i>	<i>Four or more axle vehicle</i>
<i>tonnes</i>	<i>tonnes</i>	<i>£</i>	<i>£</i>	<i>£</i>
12	13	245	190	190
13	14	340	205	205
14	15	445	205	205
15	17	680	205	205
17	19		325	205
19	21		440	205
21	23		600	295
23	25		1,070	415
25	27			665
27	29			980
29	30.49			1,610

Table A(2)

**RATES OF DUTY ON RIGID GOODS VEHICLES EXCEEDING 12 TONNES  
PLATED GROSS WEIGHT RATES FOR SHOWMEN'S GOODS VEHICLES**

<i>Plated gross weight of vehicle</i>		<i>Rate of duty</i>		
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Exceeding</i>	<i>Not Exceeding</i>	<i>Two axle vehicle</i>	<i>Three axle vehicle</i>	<i>Four or more axle vehicle</i>
<i>tonnes</i>	<i>tonnes</i>	<i>£</i>	<i>£</i>	<i>£</i>
12	13	105	90	90
13	14	145	90	90
14	15	185	90	90
15	17	285	90	90



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17	19	135	90
19	21	185	90
21	23	250	125
23	25	445	175
25	27		280
27	29		410
29	30.49		670

## PART II

### VEHICLES CARRYING OR DRAWING EXCEPTIONAL LOADS

- 1 The <sup>M130</sup>Vehicles (Excise) Act 1971 (“the 1971 Act”) and the <sup>M131</sup>Vehicles (Excise) Act (Northern Ireland) 1972 (“the 1972 Act”) shall be amended as follows.

#### Marginal Citations

**M130** 1971 c. 10.

**M131** 1972 c. 10 (N.I.).

- 2 In section 1(2) of each Act (charge of duty), for the words “the first five Schedules” there shall be substituted the words “Schedules 1 to 5”.

3<sup>F35</sup>

#### Textual Amendments

**F35** Sch. 2 Pt. II para. 3 repealed by Finance Act 1989 (c. 26, SIF 107:2), s. 187(1), Sch. 17 Pt. II (in relation to licences taken out after 14.3.1989)

- 4 In Part I of Schedule 4 to each Act (annual rates of duty on goods vehicles), in paragraph 15—

(a) in sub-paragraph (1), in the definition of “goods vehicle”, after the word “means” there shall be inserted the words “subject to sub-paragraph (1A) below”; and

(b) after that sub-paragraph there shall be inserted—

“(1A) In this Schedule “goods vehicle” does not include a vehicle to which Schedule 4A to this Act applies.”

- 5 After Schedule 4 to the 1971 Act there shall be inserted—

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## “SCHEDULE 4A

### ANNUAL RATES OF DUTY ON VEHICLES USED FOR CARRYING OR DRAWING EXCEPTIONAL LOADS

- 1 This Schedule applies to a vehicle—
  - (a) which is a heavy motor car used for the carriage of exceptional loads; or
  - (b) which is a heavy locomotive, light locomotive or motor tractor used to draw trailers carrying such loads,
 and which, when so used, is authorised for use on roads by virtue of an order under section 42 of the Road Traffic Act 1972.
- 2 The annual rate of duty applicable to a vehicle to which this Schedule applies shall be £1,600.
- 3 Where a vehicle—
  - (a) to which this Schedule applies; and
  - (b) which would, but for paragraphs 5 and 15(1A) of Schedule 4 to this Act, be a goods vehicle of a description to which a higher rate of duty is applicable under this Act,
 is at any time used on roads otherwise than as mentioned in paragraph 1 above, section 18 of this Act shall apply as if that vehicle were then being used in a manner or for a purpose which brings it within that description of vehicle.
- 4 In this Schedule—
 

“exceptional load” means a load which—

  - (a) by reason of its dimensions, cannot be carried by a heavy motor car or trailer, or a combination of a heavy motor car and trailer, which (in either case) complies in all respects with requirements of regulations under section 40 of the Road Traffic Act 1972; or
  - (b) by reason of its weight, cannot be carried by a heavy motor car or trailer, or a combination of a heavy motor car and trailer, which (in either case) has a total laden weight of not more than the specified amount and complies in all respects with such requirements;

“specified amount” means—

  - (a) in relation to any time before 1st October 1989, 32,520 kilograms;
  - (b) in relation to any time on or after that date, 38,000 kilograms;
 and other expressions which are also used in the Road Traffic Act 1972 have the same meanings as in that Act.”
- 6 The provisions set out in paragraph 5 above shall also be inserted after Schedule 4 to the 1972 Act, but modified for that purpose by the substitution for any reference to the Road Traffic Act 1972, or to section 40 or 42 of that Act, of a reference to the <sup>M132</sup>Road Traffic (Northern Ireland) Order 1981, or to Article 28 or 29(3) of that Order.

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**Marginal Citations**

**M132 S.I. 1981/154 (N.I. 1).**

SCHEDULE 3

Section 35.

MARRIED COUPLES: MINOR AND CONSEQUENTIAL PROVISIONS

**PART I**

AMENDMENTS OF THE TAXES ACT 1988

*Introductory*

1 The Taxes Act 1988 shall have effect subject to the following amendments.

*Commencement of trade etc.*

2 In section 62 (special basis for early years following commencement of trade etc.) the following subsection shall be inserted after subsection (2)—

“(2A) Where—

- (a) the second year of assessment is the year 1989-90,
- (b) the person charged, or liable to be charged, for that year is a married man, and
- (c) the person charged, or liable to be charged, for the year 1990-91 is his wife,

subsection (2) above shall have effect as if it conferred the right to give notice on her and not on him.”

*Discontinuance of trade etc.*

3 In section 63 (special basis on discontinuance of trade etc.)—

- (a) in subsection (1)(b), for the words “that person” and the word “he”, in both places where it occurs, there shall be substituted the words “ income tax ”, and
- (b) in subsection (2), for the words “a person has been charged with income tax” there shall be substituted the words “ income tax has been charged ”.

*Underpayments*

4 In section 203 (PAYE) the following subsection shall be inserted after subsection (3)

—  
“(3A) Regulations under this section may include provision for income tax in respect of any of a person’s income for the year 1989-90 or any earlier year of assessment to be collected and recovered (whether by deduction from

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income assessable under Schedule E or otherwise) from the person's spouse if—

- (a) the income was income to which section 279 applied, and
- (b) the tax has not been deducted or otherwise recovered before 6th April 1990.”

*Additional relief in respect of children*

5 (1) For the year 1990-91 and subsequent years of assessment section 259 (additional relief in respect of children) shall have effect with the following amendments.

(2) For subsection (1) there shall be substituted—

“(1) This section applies to—

- (a) any woman who is not throughout the year of assessment married and living with her husband;
- (b) any man who is neither married and living with his wife for the whole or any part of the year, nor entitled to a deduction from his total income by virtue of section 257F; and
- (c) any man who for the whole or any part of the year is married to and living with a wife who is totally incapacitated by physical or mental infirmity throughout the year.”

(3) In subsection (2), for the words “the difference between” onwards there shall be substituted the words “that specified in section 257A(1) for the year”.

(4) For subsection (4) there shall be substituted—

“(4) A woman shall not be entitled to relief under this section for a year of assessment during any part of which she is married and living with her husband unless the child in respect of whom the relief is claimed is resident with her during a part of the year when she is not married and living with her husband.”

6 For the year 1990-91 and subsequent years of assessment the following section shall be substituted for section 261 (year of marriage)—

**“261 Claims under section 259 for year of marriage.**

A man (but not a woman) who becomes married during a year of assessment may by notice to the inspector elect that his marriage shall be disregarded for the purposes of any claim that he makes for that year under section 259, and, in that case, the marriage shall also be disregarded for the purposes of any claim that he makes for that year under section 257A.”

*Widow's bereavement allowance*

7 (1) The section set out in sub-paragraph (2) below shall have effect in substitution for section 262 (widow's bereavement allowance) in relation to deaths occurring during the year 1989-90, and the section set out in sub-paragraph (3) below shall have effect

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in substitution for that section in relation to deaths occurring during the year 1990-91 or any subsequent year of assessment.

(2) The section first referred to in sub-paragraph (1) above is—

**Widow's bereavement allowance.**

“262 Where a man dies in the year 1989-90 and for that year he is entitled to the higher (married person's) relief under section 257(1), or would be so entitled but for an election under section 261 or 287, his widow shall be entitled—

- (a) for that year of assessment, to a deduction from her total income of an amount equal to the amount referred to in section 259(2), and
- (b) (unless she marries again before the beginning of it) for the year 1990-91, to a deduction from her total income of an amount equal to the amount specified in section 257A(1) for that year.”

(3) The section second referred to in sub-paragraph (1) above is—

**Widow's bereavement allowance.**

“262 Where a married man whose wife is living with him dies, his widow shall be entitled—

- (a) for the year of assessment in which the death occurs, to a deduction from her total income of an amount equal to the amount specified in section 257A(1) for that year, and
- (b) (unless she marries again before the beginning of it) for the next following year of assessment, to a deduction of an amount equal to the amount specified in section 257A(1) for that year.”

*Blind person's allowance*

8 For the year 1990-91 and subsequent years of assessment the following section shall be substituted for section 265—

**“265 Blind person's allowance.**

(1) If the claimant proves that he is a registered blind person for the whole or any part of the year of assessment, he shall be entitled to a deduction of £540 from his total income.

(2) Where—

- (a) a person entitled to relief under subsection (1) above is a married man whose wife is living with him for the whole or any part of the year of assessment, but
- (b) the amount which he is entitled to deduct from his total income by virtue of that subsection exceeds what is left of his total income after all other deductions have been made from it,

his wife shall be entitled to a deduction from her total income of an amount equal to the excess.

(3) In determining for the purposes of subsection (2)(b) above the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—

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- (a) on account of any payments of relevant loan interest which become due in that year and to which section 369 applies, or
  - (b) under section 257A or section 289.
- (4) Subsections (2) and (3) above shall have effect where a wife is entitled to relief under subsection (1) above as they have effect where the husband is entitled to that relief, but with the appropriate modifications (and in particular the omission from subsection (3) of the reference to section 257A).
- (5) Subsections (2) to (4) above shall not apply for a year of assessment unless the person entitled to relief under subsection (1) has given to the inspector written notice that they are to apply; and any such notice—
- (a) shall be given not later than six years after the end of the year of assessment to which it relates,
  - (b) shall be in such form as the Board may determine, and
  - (c) shall be irrevocable.
- (6) A notice given under subsection (5) above in relation to a year of assessment by a husband shall have effect also as a notice under section 257B(3).
- (7) In this section “registered blind person” means a person registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 or, in the case of a person ordinarily resident in Scotland or Northern Ireland, a person who is a blind person within the meaning of section 64(1) of that Act.”

*Life assurance premiums*

- 9 For the year 1990-91 and subsequent years of assessment section 266 (life assurance premiums) shall have effect with the substitution—
- (a) in subsection (9), of the word “spouse” for the words “wife (but not the husband)”, and
  - (b) in subsection (11)(a), of the words “spouse, widow, widower or children or other dependants of any such employee or person,” for the word “wife” onwards.

*Payments securing annuities*

- 10 For the year 1990-91 and subsequent years of assessment the following section shall be substituted for section 273 (payments securing annuities)—

**“273 Payments securing annuities.**

Subject to sections 274, 617(3) and 619(6), if the claimant is, under any Act of Parliament or under any terms and conditions of employment, liable to the payment of any sum, or to the deduction from any salary or stipend of any sum, for the purpose of securing a deferred annuity to a widow or widower of the claimant or provision for the claimant’s children after the claimant dies, the claimant shall be entitled to a deduction from the amount of income tax on which he or she is chargeable equal to income tax at the basic rate on the amount of the sum which he or she has paid or which has been deducted from his or her salary or stipend.”

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*Married couples living together*

- 11 For the year 1990-91 and subsequent years of assessment the following section shall be substituted for section 282 (construction of references to married women living with their husbands)—

**“282 Construction of references to husband and wife living together.**

A husband and wife shall be treated for income tax purposes as living together unless—

- (a) they are separated under an order of a court of competent jurisdiction, or by deed of separation, or
- (b) they are in fact separated in such circumstances that the separation is likely to be permanent.”

*Business expansion scheme*

- 12 (1) For the year 1990-91 and subsequent years of assessment section 304 (business expansion scheme: husband and wife) shall have effect—
- (a) with the omission of subsections (1) to (4), and
  - (b) with the substitution of the following subsections for subsections (5) and (6)

“(5) Subsection (1) of section 299 shall not apply to a disposal made by a married man to his wife or a married woman to her husband at a time when they are living together; but where shares issued to one of them have been transferred to the other by a transaction *inter vivos* that subsection shall apply on the disposal of the shares by the transferee to a third person and any assessment for withdrawing relief in respect of the shares shall be made on the transferee.

(6) If any relief given for the year 1989-90 or any earlier year of assessment in respect of shares for which a married man or married woman has subscribed and which were issued while they were living together falls to be withdrawn in the year 1990-91 or any subsequent year of assessment by virtue of a disposal of those shares by the person who subscribed for them, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that relief under section 280 or of any allocation of the reduction under section 284 for the year of assessment for which the relief was given.”

- (2) Sub-paragraph (3) below applies where—

- (a) an amount is subscribed for shares in the year 1990-91 by one of a married couple who are living together,
- (b) the couple were married and living together throughout the year 1989-90, and
- (c) the subscriber claims that relief in respect of the amount be given partly by way of deduction from total income for the year 1989-90 in accordance with section 289(6).

- (3) Where this sub-paragraph applies—

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- (a) the deduction shall be made from the husband's total income (references in Chapter II of Part VII to the relief to which an individual is entitled in respect of any shares being construed accordingly), and
- (b) the limits in sections 289(7) and 290 shall apply jointly to the husband and wife for the year 1989-90 as respects the amount subscribed.

*Qualifying maintenance payments*

- 13 For the year 1990-91 and subsequent years of assessment section 347B(3) (qualifying maintenance payments) shall have effect with the substitution of the words "specified in section 257A(1) for the year" for the words "of the difference between" onwards.

*Home loans*

- 14 For the year 1990-91 and subsequent years of assessment the following section shall be substituted for section 356B—

**“356B Residence basis: married couples.**

- (1) A husband and wife who are not separated may jointly elect—
  - (a) that qualifying interest payable or paid by one of them for a year of assessment (or a period within a year), or such part of that interest as may be specified in the election, shall be treated for the purposes of sections 353 to 356A and 369 to 379 as payable or paid by the other, and
  - (b) that the sharer's limit under section 356A for the year (or period) in the case of one of them shall be reduced by such amount as may be specified in the election and the sharer's limit under that section for the year (or period) in the case of the other shall be correspondingly increased.
- (2) An election under subsection (1) above—
  - (a) shall be made before the end of the period of twelve months beginning with the end of the first year of assessment for which it is made or such longer period as the Board may in any particular case allow,
  - (b) shall, subject to subsection (4) below, have effect not only for the year of assessment for which it is made but also for subsequent years of assessment, and
  - (c) shall be in such form, and be made in such manner, as the Board may prescribe.
- (3) Where a husband and wife have made an election under subsection (1) above for any year of assessment either of them may give, for any subsequent year, a notice to withdraw that election; and, if he or she does so, the election shall not have effect (in relation to either of them) for the year for which the notice is given or any subsequent year.
- (4) A notice of withdrawal under subsection (3) above—



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- (a) shall be in such form, and be given in such manner, as the Board may prescribe,
- (b) shall not be given after the end of the period of twelve months beginning with the end of the year of assessment for which it is given or such longer period as the Board may in any particular case allow, and
- (c) shall not prejudice the making of a fresh election for any subsequent year.

(5) Where—

- (a) a husband and wife are not separated,
- (b) the husband pays interest in relation to a residence used or to be used as his only or main residence, and
- (c) the wife pays interest in relation to some other residence used or to be used as her only or main residence,

the residence which was purchased first shall be treated for the purposes of sections 355(1)(a) and 356 as used or to be used as the only or main residence of both of them and the other residence shall be treated as used or to be used as the only or main residence of neither.”

*Loans for shares in employee-controlled company*

15 (1) In section 361 (relief for interest on loans to acquire shares in employee-controlled company)—

- (a) the words “or his spouse” in subsection (4)(d) and “, or whose spouses,” in subsection (5) shall cease to have effect, and
- (b) the following subsection shall be substituted for subsections (6) and (7)—

“(6) Where an individual owns beneficially more than 10 per cent. of the issued ordinary share capital of, or voting power in, a company, the excess shall be treated for the purposes of subsection (5) above as being owned by an individual who is not a full-time employee of the company.”

(2) Sub-paragraph (1) above shall have effect in relation to payments of interest made on or after 6th April 1990 unless the proceeds of the loan were used before that date to defray money applied as mentioned in section 361(3).

(3) Interest paid on a loan made on or after 6th April 1990 to defray money applied in paying off another loan shall not be eligible for relief by virtue of paragraph (b) of subsection (3) of section 361 unless—

- (a) the proceeds of the loan paid off were used on or after 6th April 1990 to defray money applied as mentioned in that subsection, or
- (b) those proceeds were so used before that date but interest on the loan paid off would have been eligible for relief had they been so used on or after that date.

*Close company loans*

16 (1) In section 420(2)(a)(i) (exception from charge in case where close company loans to borrower and spouse do not exceed £15,000) the words “or the wife or husband of the borrower” shall cease to have effect.

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- (2) This paragraph shall apply where the loan first mentioned in section 420(2) is made on or after 6th April 1990.

*Trade unions and employers' associations*

- 17 (1) In section 467(2) (tax exemption in respect of income of trade unions and employers' associations applied for provident benefits) for the word "wife" there shall be substituted the word "spouse".
- (2) This paragraph shall apply for any chargeable period beginning on or after 6th April 1990.

*Retirement benefit schemes*

- 18 (1) In section 590 (conditions for approval of retirement benefit schemes)—
- (a) after the word "widow," in subsection (2)(a) there shall be inserted the word "widower," and
- (b) after the word "widow" in both places where it occurs in subsection (3)(b) there shall be inserted the words "or widower".
- (2) This paragraph shall have effect on and after 6th April 1990.

*Partnership retirement annuities*

- 19 For the year 1990-91 and subsequent years of assessment section 628(1) (partnership retirement annuities) shall have effect with the substitution of the words "a widow, widower or dependant of the former partner" for the words "his widow or a dependant of his".
- 20 (1) For the year 1990-91 and subsequent years of assessment section 683 (settlements) shall have effect with the following amendments.
- (2) In subsection (1)(a), after the word "widow" there shall be inserted the word "widower".
- (3) In subsection (6)(a), for the words "he is dead, to or for the benefit of his widow" there shall be substituted the words "that individual is dead, to or for the benefit of that individual's widow, widower".
- (4) In subsection (6)(b), after the word "widow", in the first place where it occurs, there shall be inserted the word "widower" and for the words "he is dead" onwards there shall be substituted the words "such an individual is dead, to or for the benefit of that individual's widow, widower or dependants."
- (5) In subsection (9), after the word "widow" there shall be inserted the word "widower".

*Earned income*

- 21 For the year 1990-91 and subsequent years of assessment section 833(4)(a) (meaning of "earned income") shall have effect with the substitution of the word "spouse" for the word "husband", in both places where it occurs.

*Status: Point in time view as at 27/07/1991.*

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### Total income

- 22 For the year 1990-91 and subsequent years of assessment section 835(5) (meaning of “total income”) shall have effect with the insertion of “, 257A(5)” after “257(5)”.

## PART II

### OTHER PROVISIONS

#### Capital allowances

- F36 23 .....

#### Textual Amendments

F36 Sch. 3 para. 23 repealed by Capital Allowances Act 1990 (c. 1, SIF 63:1), s. 164(4), Sch. 2 (with ss. 82 and 164(5))

- F37 24 .....

#### Textual Amendments

F37 Sch. 3 para. 24 repealed by Capital Allowances Act 1990 (c.1, SIF 63:1), s. 164(4), Sch. 2 (with ss. 82 and 164(5))

#### The transition

- 25 The operation of section 279(1) of the Taxes Act 1988 for a year of assessment earlier than the year 1990-91 in the case of a married woman shall not affect the question whether there is any income of hers chargeable to income tax for the year 1990-91 or any subsequent year of assessment or, if there is, what is to be taken to be its amount for income tax purposes.

#### Returns

- 26 Where a man is required under section 8 of the <sup>M133</sup>Taxes Management Act 1970 to deliver a return which is—
- (a) so far as relates to certain sources of income, a return of income chargeable to income tax for the year 1990-91, and
  - (b) so far as relates to the remaining sources of income, a return of income chargeable to income tax for the year 1989-90,
- the same particulars shall be included in the return as would have been required had section 279 of the Taxes Act 1988 not been repealed by this Act.

#### Marginal Citations

M133 1970 c. 9.

- 27 Where a man delivers a return such as is mentioned in paragraph 26 above, the reference in sections 93(2) and 95(2) of the Taxes Management Act 1970 (penalties)

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to tax charged on or payable by him shall include a reference to tax charged on or payable by his wife in respect of any income of hers.

- 28 Where a woman is liable to a penalty under section 93(1) or 95(1) of the Taxes Management Act 1970, section 93(2) or 95(2) shall apply as if the reference to tax charged on or payable by her included a reference to any tax which is charged on or payable by her husband by virtue of section 279 of the Taxes Act 1988.

*Time limits for assessments*

F38 29 .....

**Textual Amendments**

**F38** Sch. 3 para. 29 repealed (with respect to notices given, or warrants issued on or after 27.07.1989) by Finance Act 1989 (c. 26, SIF 63:1), s. 187(1), Sch. 17 Pt. VIII.

*Transfers of allowances*

- 30 For the year 1990-91 and subsequent years of assessment the Taxes Management Act 1970 shall have effect with the insertion of the following section after section 37—

**“37A Effect of assessment where allowances transferred.**

Where an assessment is made on any person for the purpose of making good a loss of tax wholly or partly attributable to fraud, wilful default or neglect, the fact that the person’s total income for any year of assessment is assessed as greater than it was previously taken to be shall not affect the validity of any deduction made from the total income of the person’s spouse by virtue of section 257B, 257D or 265 of the principal Act; and where any such deduction has been made in such a case, the total amount which the first-mentioned person is entitled to deduct from total income for the year in question shall be correspondingly reduced.”

*Class 4 social security contributions*

- 31 For the year 1990-91 and subsequent years of assessment Schedule 2 to the <sup>M134</sup>Social Security Act 1975 and the <sup>M135</sup>Social Security (Northern Ireland) Act 1975 (Class 4 contributions) shall have effect with the substitution of the following for paragraph 3(3)—

“(3) Where in a year for which a person claims and is allowed relief by virtue of sub-paragraph (1) above there falls to be made in computing his total income for income tax purposes a deduction in respect of any loss in any relevant trade, profession or vocation—

- (a) the amount of the deduction shall, as far as may be, be treated for the purpose of the charge to Class 4 contributions as reducing the person’s profits or gains for that year of any relevant trade, profession or vocation, and

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- (b) any excess shall be treated for that purpose as reducing such profits or gains for subsequent years (being deducted as far as may be from those of the immediately following year, whether or not the person claims or is entitled to claim relief under this paragraph for that year, and, so far as it cannot be so deducted, then from those of the next year, and so on).”

**Marginal Citations**

M134 1975 c. 14.

M135 1975 c. 15.

*Annual payments*

- 32 Section 36 of this Act shall have effect in relation to a payment which is due from a husband to his wife or from a wife to her husband at a time after 5th April 1990 when they are living together, notwithstanding that the payment is made in pursuance of an obligation which is an existing obligation for the purposes of subsection (3) of that section.

*Maintenance payments*

- 33 For the year 1990-91 and subsequent years of assessment section 38(5) of this Act shall have effect with the substitution of the words “specified in section 257A(1) of the Taxes Act 1988 for the year” for the words “of the difference between” onwards.

SCHEDULE 4

Section 50.

BUSINESS EXPANSION SCHEME: PRIVATE RENTED HOUSING

**PART I**

MODIFICATIONS MADE BY SECTION 50

*Preliminary*

- 1 The modifications of Chapter III of Part VII of the Taxes Act 1988 (relief for investment in new corporate trades: the business expansion scheme) made by section 50 of this Act are as follows.

*The relief*

- 2 (1) In subsection (1) of section 289 (relief under the business expansion scheme), for paragraph (a) there shall be substituted—

*Status: Point in time view as at 27/07/1991.*

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- “(a) those shares are issued to him after the passing of the Finance Act 1988 and before the end of 1993 for the purpose of raising money for qualifying activities which are being carried on by the company or which it intends to carry on;”
- (2) In subsection (8) of that section, for paragraph (a) there shall be substituted—
- “(a) in a case falling within subsection (1)(a) unless and until the company has carried on the activities for four months;”
- (3) For subsection (9) of that section there shall be substituted—
- “(9) A claim for relief may be allowed under subsection (1)(a) at any time after the activities have been carried on by the company for four months, if the conditions for the relief are then satisfied.”
- (4) In subsection (12)(b) of that section, for the words from “either” onwards there shall be substituted the words “four years after that date”.
- (5) Subsection (13) of that section shall be omitted.

*Restriction of relief where amounts raised exceed permitted maximum*

- 3 (1) In subsection (1) of section 290A (restriction of relief where amounts raised exceed permitted maximum), for “£500,000” there shall be substituted “£5 million”.
- (2) In subsection (4) of that section, for the words “any trade or part of a trade” there shall be substituted the words “any qualifying activities” and for “£500,000”, in both places, there shall be substituted “£5 million”.
- (3) Subsections (6) to (8), (10) and (11) of that section shall be omitted.

*Individuals qualifying for relief*

- 4 In section 291 (individuals qualifying for relief), after subsection (1) there shall be inserted—
- “(1A) An individual is connected with the company if—
- (a) he, or an associate of his, occupies or is a tenant of a dwelling-house in which the company holds an interest; and
- (b) the interest held by the company is superior to any interest in the dwelling-house held by the individual.”

*Parallel trades*

- 5 Section 292 (parallel trades) shall be omitted.

*Qualifying companies*

- 6 (1) For subsection (2) of section 293 (qualifying companies) there shall be substituted—

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“(2) The company must, throughout the relevant period, be an unquoted company which is resident in the United Kingdom and not resident elsewhere, and be—

- (a) a company which exists wholly, or substantially wholly, for the purpose of carrying on activities which do not include, to any substantial extent, activities which are not qualifying activities; or
- (b) a company whose activities consist wholly of—
  - (i) the holding of shares or securities of, or the making of loans to, one or more qualifying subsidiaries of the company; or
  - (ii) both the holding of such shares or securities, or the making of such loans, and the carrying on of activities which do not include, to any substantial extent, activities which are not qualifying activities.”

(2) Subsections (4) and (9) to (11) of that section shall be omitted.

*Companies with interests in land etc.*

- 7 The following shall be omitted, namely—
- (a) section 294 (companies with interests in land);
  - (b) section 295 (valuation of interests in land for purposes of section 294(1)(b)); and
  - (c) section 296 (section 294 disapplied where amounts raised total £50,000 or more).

*Qualifying trades etc.*

- 8 The following shall also be omitted, namely—
- (a) section 297 (qualifying trades); and
  - (b) section 298 (provisions supplementary to sections 293 and 297).

*Replacement capital*

- 9 (1) In subsection (1) of section 302 (replacement capital), for the words “carry on as its trade or as part of its trade a trade which was” there shall be substituted the words “carry on, as its activities or as part of its activities, activities which were” and for the words “of a trade” there shall be substituted the words “of activities”.
- (2) In subsection (2) of that section, for the words “the trade”, in each place where they occur, there shall be substituted the words “the activities”.
- (3) In subsection (4) of that section, for paragraph (a) there shall be substituted—
- “(a) the persons to whom activities belong and, where activities belong to two or more persons, their respective shares in those activities shall be determined in accordance with section 344(1)(a) and (b), (2) and (3) (those provisions having effect for this purpose with any necessary modifications);”

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- (4) In subsection (5) of that section, the definition of “trade” shall be omitted.

### *Claims*

- 10 In subsections (2) and (3) of section 306 (claims), for the words “the trade” there shall be substituted the words “the activities”.

### *Subsidiaries*

- [<sup>F39</sup>11 (1) For subsection (1) of section 308 (application to subsidiaries) there shall be substituted—

(“ A qualifying company may, in the relevant period, have one or more subsidiaries if the subsidiary or, as the case may be, each subsidiary is a subsidiary to which subsection (1A) or (1B) below applies.

(1A) This subsection applies to a subsidiary if—

- (a) it is a dormant subsidiary or exists wholly, or substantially wholly, for the purpose of carrying on activities which do not include, to any substantial extent, activities which are not qualifying activities, and
- (b) the conditions mentioned in subsection (2) below are satisfied in respect of it and, except as provided by subsection (3) below, continue to be satisfied in respect of it until the end of the relevant period.

(1B) This subsection applies to a subsidiary if—

- (a) it is a property managing subsidiary, and
- (b) reading each reference in subsection (2) below to 90 per cent. as a reference to 51 per cent., the conditions in that subsection are satisfied in respect of it and, except as provided by subsection (3) below, continue to be satisfied in respect of it until the end of the relevant period.”

(2) In subsection (5) of that section, for paragraph (a) there shall be substituted—

(“ a subsidiary is a property managing subsidiary if it exists wholly, or substantially wholly, for the purpose of holding or managing (or holding and managing) a single block of flats and more than half of those flats are let by the qualifying company or any of its subsidiaries in the course of qualifying activities;”.]

#### **Textual Amendments**

**F39** Sch. 4 para. 11 as set out above substituted for para. 11 as originally enacted (retrospectively and to be taken always to have had effect) by [Finance \(No. 2\) Act 1992 \(c. 48\), s.39](#) (enacted 16.7.1992).

- 12 In subsection (2) of section 309 (further provisions as to subsidiaries), for the words “a qualifying trade which is” there shall be substituted the words “qualifying activities which are” and for the words “subsections (8), (9), (12)(b)(ii) and (13)” there shall be substituted the words “subsections (8) and (9)”.



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## PART II

### DWELLING-HOUSES TO WHICH SECTION 50 DOES NOT APPLY

#### *Expensive dwelling-houses*

- 13 (1) Section 50 of this Act does not apply to a dwelling-house the market value of which exceeds—
- (a) in the case of a dwelling-house in Greater London, £125,000;
  - (b) in any other case, £85,000.
- (2) The market value of a dwelling-house at any date (“the valuation date”) shall be taken to be the price which, at the relevant date, it might reasonably have been expected to fetch on a sale in the open market—
- [<sup>F40</sup>(a) on the assumption that the dwelling-house was in the same state as at the valuation date;]
  - (b) on the assumptions as to title mentioned in sub-paragraph (4) below; and in this paragraph “the relevant date” means the date of the issue of the shares or, if later, the date when the company or any of its subsidiaries first acquired an interest in the dwelling-house (or the land which comprises the dwelling-house).
- <sup>F41</sup>(3) . . . . .
- (4) The assumptions as to title are—
- (a) where the dwelling-house is in England and Wales or Northern Ireland and is a house, that the vendor was selling for an estate in fee simple with vacant possession and that the dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be if conveyed in pursuance of the right to buy legislation;
  - (b) where the dwelling-house is in England and Wales or Northern Ireland and is a flat, that the vendor was granting a lease with vacant possession for a term of 125 years at a rent of £10 per annum and that the grant was to be made with the same rights and subject to the same burdens as it would be if made in pursuance of that legislation; and
  - (c) where the dwelling-house is in Scotland, that it was available with vacant possession and with no heritable security constituted over any interest in it.
- (5) In sub-paragraph (4) above “the right to buy legislation” means—
- (a) in relation to a dwelling-house in England and Wales, Part V of the <sup>M136</sup>Housing Act 1985;
  - (b) in relation to a dwelling-house in Northern Ireland, Chapter I of Part II of the <sup>M137</sup>Housing (Northern Ireland) Order 1983;
- and “flat” and “house” have the same meanings as in that legislation.
- (6) The Treasury may by order amend sub-paragraph (1) above by substituting a different amount for any amount for the time being specified there.

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#### Textual Amendments

- F40** Sch. 4 para. 13(2)(a) substituted (for valuation on or after 20.03.1990) by Finance Act 1990 (c. 29, SIF 63:1), s. 73(1)(a), and (2).
- F41** Sch. 4 para. 13(3) repealed (for valuation on or after 20.03.1990) by Finance Act 1990 (c. 29, SIF 63:1), ss. 73(1)(b), (2), 132, Sch. 19 Pt. IV, Note 13.

#### Marginal Citations

- M136** 1985 c. 68.  
**M137** S.I. 1983/1118 (N.I. 15).

### *Unfit and sub-standard dwelling-houses*

- 14 Section 50 of this Act does not apply to—
- (a) a dwelling-house in England and Wales which is unfit for human habitation within the meaning of section 604 of the <sup>M138</sup>Housing Act 1985 or does not have all the standard amenities within the meaning of section 508 of that Act;
  - (b) a dwelling-house in Scotland which does not meet the tolerable standard described, for the purposes of the <sup>M139</sup>Housing (Scotland) Act 1987, by section 86 of that Act or does not have all the standard amenities described in the first column of Part I of Schedule 18 to that Act; or
  - (c) a dwelling-house in Northern Ireland which is unfit for human habitation within the meaning of Article 46 of the <sup>M140</sup>Housing (Northern Ireland) Order 1981 or does not have all the standard amenities within the meaning of Article 59 of the <sup>M141</sup>Housing (Northern Ireland) Order 1983.

#### Marginal Citations

- M138** 1985 c. 68.  
**M139** 1987 c. 26.  
**M140** S.I. 1981/156 (N.I. 3).  
**M141** S.I. 1983/1118 (N.I. 15).

### *Dwelling-houses already let etc.*

- 15 (1) Section 50 of this Act does not apply to a dwelling-house if—
- (a) before the relevant date, the company or any of its subsidiaries had entered into arrangements for letting the whole or any part of the dwelling-house;
  - (b) at that date, the whole or any part of the dwelling-house was let; or
  - (c) after that date, the whole or any part of the dwelling-house has been let otherwise than on a qualifying tenancy.
- (2) In this paragraph—
- “let” includes let under a licence and “letting” shall be construed accordingly;

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“the relevant date” means the date when the company or any of its subsidiaries first acquired an interest in the dwelling-house (or the land which comprises the dwelling-house).

*Dwelling-houses already qualifying for relief*

- 16 (1) Section 50 of this Act does not apply to a dwelling-house if—
- (a) a certificate has been issued under section 306(2) of the Taxes Act 1988 (as modified by paragraph 10 above) by some other company (“the other company”); and
  - (b) at any time after the issue of the shares to which that certificate related, the conditions mentioned in sub-paragraph (2) below were satisfied in relation to the dwelling-house (or a dwelling-house the whole or any part of which has been converted into or consists of the whole or any part of the dwelling-house).
- (2) The conditions referred to in sub-paragraph (1) above are satisfied in relation to a dwelling-house at any time if, at that time—
- (a) the dwelling-house is a dwelling-house to which section 50 of this Act applies in relation to the other company or any of its subsidiaries; and
  - (b) an interest in the dwelling-house is owned by that company or any such subsidiary.

*Dwelling-houses qualifying for capital allowances*

- 17 Section 50 of this Act does not apply to a dwelling-house in respect of which the company is entitled to capital allowances under paragraph 2 of Schedule 12 to the <sup>M142</sup>Finance Act 1982.

**Marginal Citations**

M142 1982 c. 39.

*Interpretation of certain expressions: Scotland*

- 18 In the application of the above provisions of this Part to Scotland, references to acquiring an interest shall be construed, if there is a contract to acquire the interest, as references to entering into that contract and for the purposes of paragraph 16(2) (b) above, a company or subsidiary shall be regarded as owning an interest during the period between its entering into such a contract as regards that interest and its acquiring the interest.

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## SCHEDULE 5

Section 58.

## UNDERWRITERS: ASSESSMENT AND COLLECTION OF TAX

*Preliminary*

- 1 (1) In this Schedule—
- “agent”, in relation to a syndicate and a year of assessment, means—
- (a) the person who was acting as underwriting agent for that syndicate at the end of the corresponding underwriting year; or
  - (b) such other person as may be determined in accordance with regulations made by the Board by statutory instrument;
- “closing year”, in relation to a year of assessment, means the year of assessment next but one following that year;
- “inspector” includes any officer of the Board;
- “profits” includes gains;
- “syndicate” means a syndicate of underwriting members of Lloyd’s formed for an underwriting year;
- “syndicate profit or loss”, in relation to a syndicate, means the aggregate amount of the profits or losses arising to all the members of the syndicate (taken together), and “syndicate profits” and “syndicate losses” shall be construed accordingly.
- (2) References in this Schedule to profits or losses arising to a member of a syndicate are references to profits or losses which—
- (a) arise to him in his capacity as such a member, whether from his underwriting business or from assets forming part of a premiums trust fund; and
  - (b) are chargeable or, as the case may be, allowable under Case I of Schedule D.
- (3) Regulations under this paragraph may make provision with respect to the year of assessment next but one preceding the year of assessment in which they are made.

*Returns by agent*

- 2 (1) An inspector may, at any time after the end of the closing year for a year of assessment, by notice in writing to the agent require him to deliver to the inspector, on or before the final day determined under sub-paragraph (2) below, a return of the syndicate profit or loss for the year of assessment—
- (a) containing such information as may be required in pursuance of the notice; and
  - (b) accompanied by such accounts, statements and reports as may be so required; and
  - (c) in the case of a syndicate profit, containing a statement of the amount of tax which would be payable on that profit if the whole of it were charged to tax at the basic rate of income tax for that year.
- (2) The final day for the delivery of any return required by a notice under sub-paragraph (1) above is whichever is the later of—
- (a) the 1st September next following the end of the closing year for the year of assessment; and

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- (b) the end of the period of three months beginning on the day following that on which the notice was served.
- (3) If the agent, having been required by a notice under sub-paragraph (1) above to deliver a return, fails to deliver the return on or before the final day for its delivery, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues; and in this sub-paragraph “the prescribed amount” means £10 for each fifty members of the syndicate (counting any number of members left over as fifty).
- (4) If the agent fraudulently or negligently delivers an incorrect return under sub-paragraph (1) above, he shall be liable to a penalty not exceeding the prescribed amount multiplied by the number of members of the syndicate; and in this sub-paragraph “the prescribed amount” means £500 in the case of fraud and £250 in the case of negligence.
- (5) In relation to a return required by a notice under sub-paragraph (1) above—
  - (a) any reference in sub-paragraph (2) or (3) above to the delivery of the return is a reference to its delivery together with the accompanying documents referred to in sub-paragraph (1) above; and
  - (b) the reference in sub-paragraph (4) above to the return being incorrect includes a reference to any of those documents being incorrect.

*Payments on account of tax*

- 3 (1) In the case of a syndicate profit for a year of assessment, the agent shall, on or before the 1st January next following the end of the closing year for that year—
  - (a) pay to the collector, on account of the liabilities to tax of the members of the syndicate, the amount stated in his return for that year under paragraph 2(1)(c) above; and
  - (b) deliver to the inspector a return apportioning, between those members, the amount so paid.
- (2) Where an amount is paid to the collector under sub-paragraph (1)(a) above for a year of assessment, the following provisions shall apply as between each member of the syndicate and the agent—
  - (a) where the member’s proportion of the amount so paid exceeds the amount deducted by the agent in accounting to the member for his share of the syndicate profit for that year, the amount of the excess shall be paid by the member to the agent; and
  - (b) where the amount so deducted exceeds that proportion, the amount of the excess shall be paid by the agent to the member.
- (3) Where an amount is paid to the collector under sub-paragraph (1)(a) above for a year of assessment, the following provisions shall apply as respects the liability to tax for that year of each member of the syndicate—
  - (a) where the amount in which the member is charged to tax exceeds his proportion of the amount so paid, the amount of the excess shall be the amount of tax due and payable; and
  - (b) where that proportion exceeds the amount in which the member is so charged, the amount of the excess shall be treated as tax overpaid.

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- (4) Any amount which is payable under sub-paragraph (1)(a) above shall carry interest at the prescribed rate from the date when it becomes payable until payment, whether or not that date is a non-business day within the meaning of the <sup>M143</sup>Bills of Exchange Act 1882; and—
- (a) section 89 of the <sup>M144</sup>Taxes Management Act 1970 (the prescribed rate of interest); and
  - (b) section 90 of that Act (disallowance of relief for interest on tax),
- shall apply for the purposes of this sub-paragraph as they apply for the purposes of any provision of Part IX of that Act.

#### Marginal Citations

**M143** 1882 c. 61.

**M144** 1970 c. 9.

#### *Determinations by inspector*

- 4 (1) If the inspector is satisfied that a return under paragraph 2(1) above affords correct and complete information concerning the syndicate profit or loss for a year of assessment, he shall determine that profit or loss accordingly.
- (2) If for a year of assessment the inspector is dissatisfied with a return under paragraph 2(1) above, or there is no such return, the inspector shall determine the syndicate profit or loss for that year to the best of his judgment.
- (3) If the inspector discovers that a determination under sub-paragraph (1) or (2) above—
- (a) understates the syndicate profits for the year of assessment; or
  - (b) overstates the syndicate losses for that year,
- he may, by a determination under this sub-paragraph, vary the first-mentioned determination accordingly.
- (4) Notice of a determination under this paragraph shall be served on the agent and shall state the time within which any appeal against the determination may be made under paragraph 5 below.
- (5) After notice of a determination under this paragraph has been served on the agent, the determination shall not be altered except in accordance with the express provisions of the Taxes Acts.

#### *Appeals*

- 5 (1) The agent may appeal against a determination under paragraph 4 above by a notice of appeal in writing given to the inspector within thirty days after the date of the notice of determination.
- (2) An appeal under this paragraph shall be to the General Commissioners, except that the agent may elect (in accordance with section 46(1) of the Taxes Management Act 1970) to bring the appeal before the Special Commissioners instead of the General Commissioners; and subsections (5) to (5E) of section 31 of that Act shall apply for the purposes of an election under this sub-paragraph as they apply for the purposes of an election under subsection (4) of that section.

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*Modification of determinations pending appeal*

- 6 (1) Where the agent appeals against a determination under paragraph 4 above, then, for the purpose of establishing, in the event of a member of the syndicate appealing against an assessment made on him, the amount of tax the payment of which should, pending the determination of that appeal, be postponed under section 55 of the Taxes Management Act 1970, that section shall apply to the first-mentioned appeal with the modifications specified in sub-paragraph (2) below.
- (2) The modifications are as follows—
- (a) any reference to the notice of assessment shall be construed as a reference to the notice of determination;
  - (b) any reference to the appellant believing that he is overcharged to tax by the assessment shall be construed as a reference to him believing that the determination overstates the syndicate profits, or understates the syndicate losses, for the year of assessment, and any reference to the appellant having grounds for so believing, or there being reasonable grounds for so believing, shall be construed accordingly;
  - (c) any reference to a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal shall be construed as a reference to a direction that the determination shall, pending the determination of the appeal, have effect for the purpose stated in sub-paragraph (1) above as if the syndicate profits there stated were reduced, or the syndicate losses there stated were increased, by such amount as may be specified in the direction, and any reference to an amount of tax so determined, or to the amount of tax which should be so postponed, shall be construed accordingly; and
  - (d) subsections (2) and (9) and, in subsection (6), paragraphs (a) and (b) and the word “and” immediately preceding paragraph (a) shall be omitted.

*Apportionments of syndicate profit or loss*

- 7 (1) Where a determination of a syndicate profit or loss for a year of assessment is made, varied or modified (whether under the foregoing provisions of this Schedule or on appeal), the inspector may, by notice in writing to the agent, require him to make to the inspector, within the specified period, a return apportioning, between the members of the syndicate, the syndicate profit or loss as stated in the determination as so made, varied or modified.
- (2) If the agent, having been required by a notice under sub-paragraph (1) above to deliver a return within the specified period, fails to deliver the return within that period, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues; and in this sub-paragraph “the prescribed amount” means £5 for each fifty members of the syndicate (counting any number of members left over as fifty).
- (3) In this paragraph “the specified period” means such period, not being less than thirty days and beginning with the day following the date of the notice under sub-paragraph (1) above, as may be specified in that notice.

*Individual members: effect of determinations*

- 8 (1) A determination of a syndicate profit or loss for a year of assessment (whether as originally made or as varied or modified) shall, for the purpose of determining the

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liability to tax of each member of the syndicate, be conclusive against that member that the syndicate profit or loss for that year is as there stated.

- (2) Where a determination of a syndicate profit or loss for a year of assessment is varied or modified at any time after the issue of a notice of assessment assessing any member of the syndicate to tax—
- (a) section 31 of the <sup>M145</sup>Taxes Management Act 1970 (right of appeal) and section 55 of that Act (postponement of tax) shall have effect, in relation to that member, as if any reference to the date of the notice of assessment, or the date of the issue of the notice of assessment, were a reference to the date of the variation or modification; and
  - (b) in the case of a variation, an assessment which gives effect to the determination as varied shall not be out of time if it is made within one year of the date of the variation.
- (3) Sub-paragraph (2)(b) above shall not apply in the case of a variation under paragraph 4(3) above which is made later than six years after the end of the closing year.

**Marginal Citations**

M145 1970 c. 9.

*Assessment of individual members: time limits*

- 9 For the purposes of sections 36, 37, 40 and 41 of the <sup>M146</sup>Taxes Management Act 1970 (extension of time in cases of fraud, wilful default or neglect), anything done or omitted to be done by the agent shall be deemed to have been done or omitted to be done by each member of the syndicate.

**Marginal Citations**

M146 1970 c. 9.

*Supplemental: penalties*

- 10 (1) If it appears to an inspector or the Board that the agent is liable to a penalty under paragraph 2(3) or 7(2) above, the amount appearing to be due may be assessed by the inspector or the Board as if it were tax for the year of assessment in which the failure to make the return occurred; and, subject to the provisions of this paragraph, the provisions of the Taxes Management Act 1970 relating to the assessment and collection of tax shall apply accordingly.
- (2) An amount assessed by way of penalty under paragraph 2(3) or 7(2) above shall be due at the end of the period of thirty days beginning with the date of the issue of the notice of assessment.
- (3) On an appeal against an assessment of an amount by way of penalty under sub-paragraph (3) of paragraph 2 or sub-paragraph (2) of paragraph 7 above, subsections (6) to (8) of section 50 of that Act shall not apply but the Commissioners—
- (a) may confirm the amount of the assessment or, if it appears to them that the amount assessed is greater or smaller than the penalty provided for under



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- that sub-paragraph, may reduce it or increase it to such an amount as is appropriate having regard to the provisions of that sub-paragraph; and
- (b) if it appears to them that no penalty has been incurred, may set the assessment aside.
- (4) Where an amount has been assessed by way of penalty under sub-paragraph (3) of paragraph 2 or sub-paragraph (2) of paragraph 7 above and either no appeal has been brought against that assessment or the amount assessed has been confirmed or varied on appeal—
- (a) a certificate of an inspector or other officer of the Board that an amount is due by way of penalty under that sub-paragraph; and
- (b) a certificate of a collector that payment of that amount has not been made to him or, to the best of his knowledge and belief, to any other collector, or to a person acting on his behalf or on behalf of another collector,
- shall be sufficient evidence that the amount mentioned in the certificates is unpaid and is due to the Crown; and any document purporting to be such a certificate as is mentioned in this sub-paragraph shall be deemed to be such a certificate unless the contrary is proved.
- (5) Section 100 of the Taxes Management Act 1970 (procedure for recovery of penalties) shall not apply to a penalty under paragraph 2(3) or 7(2) above.

*Supplemental: interest*

- 11 (1) Interest charged under paragraph 3(4) above shall be treated for the purposes of the enactments mentioned in section 69 of the Taxes Management Act 1970 (interest on tax) as if it were tax charged and due and payable under an assessment.
- (2) References to section 86 of that Act in sections 70(2) and 92 of that Act (evidence, and remission of interest in certain cases) shall include a reference to paragraph 3(4) above.

SCHEDULE 6

Section 65.

COMMERCIAL WOODLANDS

**Modifications etc. (not altering text)**

**C17** Sch. 6 applied (31.7.1998) by 1988 c. 1, s. 21B (as substituted (31.7.1998) by 1998 c. 36, s. 38(1), Sch. 5 Pt. I paras. 4, 73)

*Preliminary*

- 1 In this Schedule “commercial woodlands” means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

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*Abolition of charge under Schedule B*

- 2
- (1) The charge to tax under Schedule B in respect of the occupation of commercial woodlands is hereby abolished.
  - (2) In any case where, as respects an accounting period of a company which begins before and ends on or after 6th April 1988, the charge to tax under Schedule B has effect in relation to one part of that period but does not have effect in relation to the other part—
    - (a) the income deemed to arise to the company for that period from the occupation of the woodlands concerned shall be apportioned between those parts; and
    - (b) so much of that income as is apportioned to the part beginning on 6th April 1988 shall not be regarded as income arising to the company for that period.
  - (3) This paragraph shall be deemed to have come into force on 6th April 1988.

*Abolition of Schedule D election etc.*

- 3
- (1) Section 54 of the Taxes Act 1988 and section 111 of the Taxes Act 1970 (which confer on a person occupying commercial woodlands the right to elect to be assessed and charged to tax in respect of them under Schedule D instead of under Schedule B) shall cease to have effect.
  - (2) Subject to paragraph 5(1) below, profits or gains or losses which arise to a person from the occupation of commercial woodlands on or after 15th March 1988 shall not be regarded for any purposes as profits or gains or losses chargeable under Schedule D.
  - (3) Subject to paragraph 5(1) below—
    - (a) interest which is paid by a company on or after 15th March 1988 shall not be treated as a charge on income for the purposes of corporation tax; and
    - (b) interest which is paid by any person on or after that date and—
      - (i) is stated in section 360(1), 361(3) or 362 of the Taxes Act 1988 (loans to buy interest in close company, interest in employee-controlled company or into partnership) to be eligible for relief under section 353 of that Act; or
      - (ii) is stated in any of the corresponding enactments repealed by that Act to be eligible for relief under section 75 of the <sup>M147</sup>Finance Act 1972, shall not be so eligible,
 if the relevant business consists of the occupation of commercial woodlands.
  - (4) Where part only of the relevant business consists of the occupation of commercial woodlands—
    - (a) interest falling within paragraph (a) of sub-paragraph (3) above shall not be treated as a charge on income for the purposes of corporation tax; and
    - (b) interest falling within paragraph (b) of that sub-paragraph shall not be eligible for relief under section 353 of the Taxes Act 1988 or section 75 of the <sup>M148</sup>Finance Act 1972,

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to such extent as may be just and reasonable having regard to all the circumstances of the case and, in particular, to the proportion which that part of that business bears to the whole.

- (5) In this paragraph “the relevant business” means—
- (a) in relation to interest paid on or after 15th March 1988 by a company which is not a member of a group, the business carried on by the company;
  - (b) in relation to interest paid on or after that date by a company which is a member of a group, the business carried on by the group; and
  - (c) in relation to interest falling within paragraph (b) of sub-paragraph (3) above, the business carried on by the close company, employee-controlled company or partnership concerned;
- and for the purposes of this paragraph two or more businesses carried on by a company, group or partnership shall be regarded as a single business.
- (6) For the purposes of this paragraph a company shall be deemed to be a member of a group with one or more other companies if the relationship between that company and the other company or, as the case may be, each of the other companies is as mentioned in section 341(2) of the Taxes Act 1988 or section 60(2) of the <sup>M149</sup>Finance (No. 2) Act 1987 (payments of interest between related companies).
- (7) This paragraph shall be deemed to have come into force on 15th March 1988.

#### Marginal Citations

M147 1972 c. 41.

M148 1972 c. 41.

M149 1987 c. 51.

#### *[ Transitional provisions*

- <sup>F424</sup> (1) Where this paragraph applies in relation to a person’s occupation of any commercial woodlands—
- (a) that person; or
  - (b) in the event of his death, any other person who occupies them by virtue of any disposition (whether effected by will, under the law relating to intestacy or otherwise) of property comprised in his estate immediately before his death, may elect to be assessed and charged to tax in respect of them under Schedule D; and the reference in this sub-paragraph to a disposition includes a reference to a disposition as varied under section 142 of the <sup>M150</sup>Inheritance Tax Act 1984.
- (2) This paragraph applies in relation to a person’s occupation of any commercial woodlands if—
- (a) he had entered into a contract or made arrangements before 15th March 1988 for his occupation of them;
  - (b) he was occupying them on that date; or
  - (c) he is or was occupying them after that date and the requirements of sub-paragraph (3) below are satisfied with respect to the land which comprises them;

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and in this sub-paragraph and sub-paragraph (3) below “arrangements” does not include arrangements which are not evidenced by an instrument or other document made before that date.

- (3) The requirements of this sub-paragraph are satisfied with respect to any land which comprises commercial woodlands if, before 15th March 1988, the person who is or was occupying them after that date—

- (a) had entered into a contract or made arrangements for the afforestation (including the replanting) of the land; or
- (b) had made an application for a grant under section 1 of the <sup>M151</sup>Forestry Act 1979 or section 2(1)(e) of the <sup>M152</sup>Forestry Act (Northern Ireland) 1953 with respect to the land;

and for the purposes of paragraph (b) above an application shall be treated as made when it was received by the Forestry Commissioners or, in Northern Ireland, by the Department of Agriculture.

- (4) Subject to sub-paragraph (5) below, an election under sub-paragraph (1) above—
- (a) shall be made by notice in writing given to the inspector not later than two years after the end of the chargeable period to which the election relates;
  - (b) shall have effect not only in relation to that period but also, so long as the person by whom it is made continues to occupy the woodlands, in relation to subsequent chargeable periods; and
  - (c) shall extend to all woodlands on the same estate.
- (5) An election made under sub-paragraph (1) above in respect of any commercial woodlands shall not have effect in relation to any chargeable period if before the beginning of that period a relevant grant has been made with respect to any land which comprises woodlands on the same estate.
- (6) For the purposes of sub-paragraphs (4) and (5) above, woodlands shall be treated as being on a separate estate if the person occupying them so elects by notice in writing given to the inspector not later than two years after the time when they are planted or replanted.
- (7) An election under section 111 of the Taxes Act 1970 made before 15th March 1988 in respect of any commercial woodlands by a person who, on that date, was occupying those woodlands shall have effect as if made under sub-paragraph (1) above.
- (8) In this paragraph and paragraph 5 below “relevant grant” means a grant under section 1 of the Forestry Act 1979 or section 2(1)(e) of the Forestry Act (Northern Ireland) 1953 which—
- (a) is made on terms and conditions first published after 15th March 1988; and
  - (b) is not made by way of supplement to a grant made on terms and conditions first published before that date.
- (9) This paragraph shall be deemed to have come into force on 15th March 1988 and shall cease to have effect on 6th April 1993.]

#### Textual Amendments

**F42** Sch. 6 para. 4 repealed (06.04.1993) by Finance Act 1988 (c. 39, SIF 63:1), s. 148, Sch. 14 Pt. V Note 3

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**Modifications etc. (not altering text)**

- C18** Sch. 6 para. 4(4) modified (28.3.1992 but with effect for the year of assessment 1989-90 only) by S.I. 1992/511, regs. 1(1), 9, **Sch. 2**
- C19** Sch. 6 para. 4(4) applied with modifications (23.3.1993) by S.I. 1993/415, reg. 9, **Sch. 2**  
Sch. 6 para. 4(4) expressed to be modified (5.4.1994 but with effect for the year of assessment 1991-92 only) by S.I. 1994/728, regs. 1(1), 9, **Sch. 2**  
Sch. 6 para. 4(4) expressed to be applied with modifications (9.3.1995 with effect as mentioned in regs. 14(2), 15(2) of the amending S.I.) by S.I. 1995/352, regs. 14, 15, **Sch.**

**Marginal Citations**

- M150** 1984 c. 51.  
**M151** 1979 c. 21.  
**M152** 1953 c. 2 (N.I.).

- 5 [F43(1) For any chargeable period in relation to which an election made under paragraph 4(1) above by any person has effect in respect of any commercial woodlands—
- (a) any profits or gains or losses which arise to him before 6th April 1993 from the occupation of those woodlands shall for all purposes be regarded as profits or gains or losses of a trade chargeable under Schedule D;
  - (b) in computing those profits or gains or losses, no account shall be taken of any relevant grant and no deduction shall be made for any expenditure in respect of which any such grant was made; and
  - (c) the occupation of those woodlands shall not be taken into account under paragraph 3(3) or (4) above as respects any interest paid before that date.]
- (2) In any case where, as respects an accounting period of a company which begins before and ends on or after 6th April 1993, sub-paragraph (1) above has effect in relation to one part of that period but does not have effect in relation to the other part—
- (a) the profits or gains or losses arising to the company for that period from the occupation of the woodlands concerned shall be apportioned between those parts; and
  - (b) such of those profits or gains or losses as are apportioned to the part beginning on 6th April 1993 shall not be regarded as profits or gains or losses arising to the company for that period.
- (3) In any case where—
- (a) sub-paragraph (1) above, as it applies for income tax purposes, has effect for a year of assessment as respects a person's occupation of any commercial woodlands;
  - (b) that year of assessment is the final year of assessment for which that sub-paragraph, as it so applies, has effect as respects that person's occupation of those woodlands; and
  - (c) there is an interval between the end of the relevant basis period and the beginning of the next following year of assessment;
- then, for the purpose of calculating any capital allowances which fall to be made in taxing his occupation of those woodlands, the interval shall be deemed to form part of that basis period.
- (4) In sub-paragraph (3) above—

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“basis period” has the meaning given by section 72 of the <sup>M153</sup>Capital Allowances Act 1968;

“the relevant basis period”, in relation to a year of assessment, means—

- (a) except where that year of assessment is in relation to the occupation by the person of the woodlands concerned a year of loss within the meaning of section 383 of the Taxes Act 1988, the basis period for that year of assessment;
- (b) in the excepted case, the basis period for the next following year of assessment.

- (5) Sub-paragraph (1) above shall be deemed to have come into force on 15th March 1988 and shall cease to have effect on 6th April 1993.

#### Textual Amendments

**F43** Sch. 6 para. 5(1) repealed (06.04.1993) by Finance Act 1988 (c. 39, SIF 63:1), s. 148, Sch. 14 Pt. V Note 3.

#### Marginal Citations

**M153** 1968 c. 3.

### *Consequential amendments*

- 6 <sup>F44</sup>(1) .....
- (2) In section 67(1) of the Taxes Act 1970 (Schedule A), in paragraph 3 of Schedule A (exceptions), after paragraph (a) there shall be inserted—
  - “(aa) to any profits or gains arising from a person’s occupation of any woodlands which are managed on a commercial basis and with a view to the realisation of profits, or”
- (3) In section 110 of the Taxes Act 1970 (farming and the commercial occupation of land), in subsection (3), for the proviso there shall be substituted—
 

Provided that nothing in this subsection shall apply in relation to the occupation of land which comprises woodlands or is being prepared for use for forestry purposes.;

but the amendment made by this sub-paragraph shall not apply in relation to land which is being prepared for use for forestry purposes if the requirements of paragraph 4(3) above are satisfied with respect to it.
- (4) In sections 168(8), 169(10) and 171(5) of the Taxes Act 1970, for the words “section 111 of this Act” there shall be substituted the words “paragraph 4 of Schedule 6 to the Finance Act 1988”.
- (5) In section 113(1) of the <sup>M154</sup>Capital Gains Tax Act 1979 (woodlands)—
  - (a) for the words “land assessed to income tax or corporation tax under Schedule B” there shall be substituted the words “woodlands managed by the occupier on a commercial basis and with a view to the realisation of profits”;
  - (b) for the words “such land” there shall be substituted the words “such woodlands”; and

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- (c) for the words “the person assessed to the tax under Schedule B” there shall be substituted the words “the occupier”.
- (6) In section 15(1) of the Taxes Act 1988 (Schedule A), in paragraph 3 of Schedule A (exceptions), after paragraph (a) there shall be inserted—
- “(a) to any profits or gains arising from a person’s occupation of any woodlands which are managed on a commercial basis and with a view to the realisation of profits, or”
- (7) In section 53 of the Taxes Act 1988 (farming and the commercial occupation of land), for subsection (4) there shall be substituted—
- “(4) Subsection (3) above shall not apply in relation to the occupation of land which comprises woodlands or is being prepared for use for forestry purposes.”but the amendment made by this sub-paragraph shall not apply in relation to land which is being prepared for use for forestry purposes if the requirements of paragraph 4(3) above are satisfied with respect to it.
- (8) In sections 380(4), 383(12)(a) and 385(6) of the Taxes Act 1988, for the words “section 54” there shall be substituted the words “paragraph 4 of Schedule 6 to the Finance Act 1988”.
- (9) Sub-paragraphs (1), (4) and (8) above shall be deemed to have come into force on 15th March 1988; and sub-paragraphs (2), (3) and (5) to (7) above shall be deemed to have come into force on 6th April 1988.

#### Textual Amendments

**F44** Sch. 6 para. 6(1) repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(4), **Sch. 2** (with ss. 82 and 164(5)).

#### Marginal Citations

**M154** 1979 c. 14.

## SCHEDULE 7

Section 66.

### EXCEPTIONS TO RULE IN SECTION 66(1)

#### *Cases where rule does not apply*

- 1 (1) Subject to sub-paragraphs (2) and (3) below, section 66(1) of this Act shall not apply in relation to a company which, immediately before the commencement date—
- (a) was carrying on business;
- (b) was not resident in the United Kingdom, having ceased to be so resident in pursuance of a Treasury consent; and
- (c) where that consent was a general consent, was taxable in a territory outside the United Kingdom.
- (2) If at any time on or after the commencement date a company falling within sub-paragraph (1) above—
- (a) ceases to carry on business; or

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- (b) where the Treasury consent there referred to was a general consent, ceases to be taxable in a territory outside the United Kingdom, section 66(1) of this Act shall apply in relation to the company after that time or after the end of the transitional period, whichever is the later.
- (3) If at any time on or after the commencement date a company falling within sub-paragraph (1) above becomes resident in the United Kingdom, section 66(1) of this Act shall apply in relation to the company after that time.
- 2 (1) Subject to sub-paragraphs (2) and (3) below, section 66(1) of this Act shall not apply in relation to a company which—
- (a) carried on business at any time before the commencement date;
  - (b) ceases to be resident in the United Kingdom at any time on or after that date in pursuance of a Treasury consent; and
  - (c) is carrying on business immediately after that time.
- (2) If at any time after it ceases to be resident in the United Kingdom a company falling within sub-paragraph (1) above ceases to carry on business, section 66(1) of this Act shall apply in relation to the company after that time or after the end of the transitional period, whichever is the later.
- (3) If at any time after it ceases to be resident in the United Kingdom a company falling within sub-paragraph (1) above becomes resident in the United Kingdom, section 66(1) of this Act shall apply in relation to the company after that time.

*Cases where rule does not apply until end of transitional period*

- 3 (1) Subject to sub-paragraph (2) below, in relation to a company which—
- (a) carried on business at any time before the commencement date;
  - (b) was not resident in the United Kingdom immediately before that date; and
  - (c) is not a company falling within paragraph 1(1) above,
- section 66(1) of this Act shall not apply until after the end of the transitional period.
- (2) If at any time on or after the commencement date a company falling within sub-paragraph (1) above becomes resident in the United Kingdom, section 66(1) of this Act shall apply in relation to the company after that time.
- 4 (1) Subject to sub-paragraph (2) below, in relation to a company which—
- (a) carried on business at any time before the commencement date;
  - (b) ceases to be resident in the United Kingdom at any time on or after that date in pursuance of a Treasury consent; and
  - (c) is not a company falling within paragraph 2(1) above,
- section 66(1) of this Act shall not apply until after the end of the transitional period.
- (2) If at any time after it ceases to be resident in the United Kingdom a company falling within sub-paragraph (1) above becomes resident in the United Kingdom, section 66(1) of this Act shall apply in relation to the company after that time.

*Supplemental*

- 5 (1) In this Schedule—
- “the commencement date” means the date of the coming into force of this Schedule;



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“general consent” means a consent under any section to which sub-paragraph (2) below applies given generally within the meaning of subsection (4) of that section;

“taxable” means liable to tax on income by reason of domicile, residence or place of management;

“the transitional period” means the period of five years beginning with the commencement date;

“Treasury consent” means a consent under any section to which sub-paragraph (2) below applies given for the purposes of subsection (1)(a) of that section.

- (2) This sub-paragraph applies to the following sections (restrictions on the migration etc. of companies), namely—
- section 765 of the Taxes Act 1988;
  - section 482 of the Taxes Act 1970;
  - section 468 of the <sup>M155</sup>Income Tax Act 1952; and
  - section 36 of the <sup>M156</sup>Finance Act 1951.
- (3) Any question which arises under any of the provisions of this Schedule shall be determined without regard to the provision made by section 66(1) of this Act.

**Marginal Citations**

**M155** 1952 c. 10.

**M156** 1951 c. 43.

SCHEDULE 8

Section 96.

CAPITAL GAINS: ASSETS HELD ON 31ST MARCH 1982

**Modifications etc. (not altering text)**

**C20** Sch. 8 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.13

*Previous no gain/no loss disposals*

- 1 (1) Where—
- (a) a person makes a disposal, not being a no gain/no loss disposal, of an asset which he acquired after 31st March 1982, and
  - (b) the disposal by which he acquired the asset and any previous disposal of the asset after 31st March 1982 was a no gain/no loss disposal,
- he shall be treated for the purposes of section 96 of this Act as having held the asset on 31st March 1982.

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- (2) For the purposes of this paragraph a no gain/no loss disposal is one on which by virtue of any of the enactments specified in sub-paragraph (3) below neither a gain nor a loss accrues to the person making the disposal.
- (3) The enactments mentioned in sub-paragraph (2) above are—
- (a) sections 44, 56, 123A, 146(3), 147(4), 148 and 149A of the <sup>M157</sup>Capital Gains Tax Act 1979;
  - (b) sections 267, 273, [<sup>F45</sup>273A ,] 340(7), 342, 342A, 342B, 343(5) and 352(7) of the Taxes Act 1970;
  - (c) section 148 of the <sup>M158</sup>Finance Act 1982;
  - (d) section 7 of the <sup>M159</sup>Finance (No.2) Act 1983;
  - (e) paragraph 2 of Schedule 2 to the <sup>M160</sup>Trustee Savings Banks Act 1985;
  - [<sup>F46</sup>(ee) section 130(3) of the Transport Act 1985;]
  - (f) section 486(8) of the Taxes Act 1988; <sup>F47</sup> . . .
  - (g) paragraph 4 of Schedule 12 to this Act [<sup>F48F49</sup> . . . ;
  - (h) paragraph 2(1) of Schedule 12 to the Finance Act 1990.][<sup>F50</sup> and
  - (i) section 78(2) of the Finance Act 1991.]

#### Textual Amendments

- F45** Word in Sch. 8 para. 1(3)(b) inserted(*for disposals on or after 20.03.1990*) by Finance Act 1990 (c. 29, SIF 63:1,2), s. 70(7)(b)(9).
- F46** Sch. 8 para. 1(3)(ee) inserted(*retrosp.*) by Finance Act 1989 (c. 26, SIF 63:2), s. 141, Sch. 15 para. 4(2).
- F47** Word at end of Sch. 8 para. 1(3)(f) repealed(*where the valuation date is on or after 20.03.1990*) by Finance Act 1990 (c. 29, SIF 63:1), s. 132, Sch. 19 Pt. IV Note 13.
- F48** Sch. 8 para. 1(3)(h) and word preceeding it added by Finance Act 1990 (c. 29, SIF 63:1), s. 80, Sch. 12 para. 2(2).
- F49** Word in Sch. 8 para. 1(3)(g) repealed (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:1), ss. 78(1)(7), 123, Sch. 19 Pt.V
- F50** Sch. 8 para. 1(3)(i) and word preceding it inserted (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 78(1)(7)

#### Marginal Citations

- M157** 1979 c. 14.  
**M158** 1982 c. 39.  
**M159** 1983 c. 49.  
**M160** 1985 c. 58.

- 2 (1) Sub-paragraph (2) below applies where a person makes a disposal of an asset acquired by him on or after 6th April 1988 in circumstances in which either of the relevant enactments applied.
- (2) Where this sub-paragraph applies—
- (a) an election under subsection (5) of section 96 of this Act by the person making the disposal shall not cover the disposal, but
  - (b) the making of such an election by the person from whom the asset was acquired shall cause the disposal to fall outside subsection (3) of that section

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(so that subsection (2) of that section is not excluded by it) whether or not the person making the disposal makes such an election.

- (3) Where the person from whom the asset was acquired by the person making the disposal himself acquired it on or after 6th April 1988 in circumstances in which either of the relevant enactments applied, an election made by him shall not have the effect described in sub-paragraph (2)(b) above but an election made by—
- (a) the last person by whom the asset was acquired after 5th April 1988 otherwise than in such circumstances, or
  - (b) if there is no such person, the person who held the asset on 5th April 1988, shall have that effect.
- (4) In this paragraph “the relevant enactments” means—
- (a) section 273 of the Taxes Act 1970, and
  - (b) section 44 of the <sup>M161</sup>Capital Gains Tax Act 1979.

**Marginal Citations**

**M161** 1979 c. 14.

*Capital allowances*

- 3 If under section 96 of this Act it is to be assumed that any asset was on 31st March 1982 sold by the person making the disposal and immediately re-acquired by him, sections 34 and 39 of the <sup>M162</sup>Capital Gains Tax Act 1979 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by him in providing the asset as if it were made in respect of expenditure which, on that assumption, was incurred by him in re-acquiring the asset on 31st March 1982.

**Marginal Citations**

**M162** 1979 c. 14.

*Part disposals*

- 4 Where, in relation to a disposal to which section 96(2) of this Act applies, section 35 of the Capital Gains Tax Act 1979 has effect by reason of an earlier disposal made after 31st March 1982 and before 6th April 1988, the sums to be apportioned under section 35 shall for the purposes of the later disposal be ascertained on the assumption stated in section 96(2) of this Act.

*Assets derived from other assets*

- 5 Section 96 of this Act shall have effect with the necessary modifications in relation to a disposal of an asset which on 31st March 1982 was not itself held by the person

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making the disposal, if its value is derived from another asset of which account is to be taken in relation to the disposal under section 36 of the Capital Gains Tax Act 1979.

*Group transactions*

- 6 In relation to disposals to which section 96(2) of this Act applies, section 280 of the Taxes Act 1970 (depreciatory transactions effected on or after 6th April 1965) shall have effect with the substitution in subsections (1) and (5) of the words “31st March 1982” for the words “6th April 1965”.

*Close companies*

- 7 In relation to disposals to which section 96(2) of this Act applies, section 75(1) of the Capital Gains Tax Act 1979 (close company transferring assets at an undervalue after 6th April 1965) shall have effect with the substitution of the words “31st March 1982” for the words “6th April 1965”.

*Private residence relief*

- 8 In relation to disposals on or after 6th April 1988, section 102(4) of the <sup>M163</sup>Capital Gains Tax Act 1979 (reduced relief where house is not principal residence throughout ownership since 6th April 1965) shall have effect with the substitution of the words “31st March 1982” for the words “6th April 1965”.

**Marginal Citations**

**M163** 1979 c. 14.

*Replacement of business assets*

- 9 In relation to disposals on or after 6th April 1988, section 115 of the Capital Gains Tax Act 1979 (under which relief is reduced where assets are used for differing purposes during the period of ownership) shall have effect with the insertion after subsection (7) of the following subsection—

“(7A) In this section “period of ownership” does not include any period before 31st March 1982.”

*Apportionment of pre-1965 gains and losses*

- 10 In a case where because of paragraph 11 of Schedule 5 to the Capital Gains Tax Act 1979 (which apportions gains and losses partly attributable to ownership before 6th April 1965) only part of a gain or loss is a chargeable gain or allowable loss, subsection (3)(a) and (b) of section 96 of this Act shall have effect as if the amount

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of the gain or loss that would accrue if subsection (2) did not apply were equal to that part.

### *Indexation allowance*

- 11 In relation to disposals on or after 6th April 1988, section 68 of the <sup>M164</sup>Finance Act 1985 shall have effect with the substitution for subsection (5) of the following subsection—

“(5) Except where an election under section 96(5) of the Finance Act 1988 has effect, neither subsection (4) above nor section 96(2) of the Finance Act 1988 shall apply for the purpose of computing the indexation allowance in a case where that allowance would be greater if they did not apply.”

#### **Marginal Citations**

**M164** 1985 c. 54.

### *Elections under section 96(5): excluded disposals*

- 12 (1) An election under section 96(5) of this Act shall not cover disposals such as are specified in sub-paragraph (2) below.
- (2) The disposals mentioned in sub-paragraph (1) above are disposals of, or of an interest in,—
- (a) plant or machinery,
  - (b) an asset which the person making the disposal has at any time held for the purposes of or in connection with—
    - (i) a trade consisting of the working of a source of mineral deposits, or
    - (ii) where a trade involves (but does not consist of) such working, the part of the trade which involves such working, or
  - (c) a licence under the <sup>M165</sup>Petroleum (Production) Act 1934 or the <sup>M166</sup>Petroleum (Production) Act (Northern Ireland) 1964; [<sup>F51</sup>or
  - (d) shares which, on 31st March 1982, were unquoted and derived their value, or the greater part of their value, directly or indirectly from oil exploration or exploitation assets situated in the United Kingdom or a designated area or from such assets and oil exploration or exploitation rights taken together]

but a disposal does not fall within paragraph (a) or (b) above unless a capital allowance in respect of any expenditure attributable to the asset has been made to the person making the disposal or would have been made to him had he made a claim.

[<sup>F52</sup>(2A) For the purposes of sub-paragraph (2)(d) above,—

- (a) “shares” includes stock and any security, as defined in section 254(1) of the Taxes Act 1988; and
- (b) shares (as so defined) were unquoted on 31st March 1982 if, on that date, they were neither quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market;

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but nothing in this paragraph affects the operation, in relation to such unquoted shares, of sections 77 to 81 of the Capital Gains Tax Act 1979 (under which, on a reorganisation etc., a new holding may fall to be treated as the same asset as the original shares).

(2B) In sub-paragraph (2)(d) above

“designated area” means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964;

“oil exploration or exploitation assets” shall be construed in accordance with sub-paragraphs (2C) and (2D) below; and

“oil exploration or exploitation rights” means rights to assets to be produced by oil exploration or exploitation activities (as defined in sub-paragraph (2D) below) or to interests in or to the benefit of such assets.

(2C) For the purposes of sub-paragraph (2)(d) above an asset is an oil exploration or exploitation asset if either—

(a) it is not a mobile asset and is being or has at some time been used in connection with oil exploration or exploitation activities carried on in the United Kingdom or a designated area; or

(b) it is a mobile asset which has at some time been used in connection with oil exploration or exploitation activities so carried on and is dedicated to an oil field in which the company whose shares are disposed of by the disposal or a person connected with that company, within the meaning of section 839 of the Taxes Act 1988, is or has been a participator;

and, subject to sub-paragraph (2D) below, expressions used in paragraphs (a) and (b) above have the same meaning as if those paragraphs were included in Part I of the <sup>M167</sup>Oil Taxation Act 1975.

(2D) In the preceding provisions of this paragraph “oil exploration or exploitation activities” means activities carried on in connection with—

(a) the exploration of land (including the seabed and subsoil) in the United Kingdom or a designated area, as defined in sub-paragraph (2B) above, with a view to searching for or winning oil; or

(b) the exploitation of oil found in any such land;

and in this sub-paragraph “oil” has the same meaning as in Part I of the Oil Taxation Act 1975.]

(3) Where the person making the disposal acquired the asset on a no gain/no loss disposal, the references in sub-paragraph (2) above to that person are references to the person making the disposal, the person who last acquired the asset otherwise than on a no gain/no loss disposal or any person who subsequently acquired the asset on such a disposal.

(4) In this paragraph—

(a) “source of mineral deposits” shall be construed in accordance with Schedule 13 to the <sup>M168</sup>Finance Act 1986, and

(b) references to a no gain/no loss disposal shall be construed in accordance with paragraph 1 above.

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#### Textual Amendments

- F51** Sch. 8 para. 12(2)(d) and word preceding it inserted(*for disposals on or after 22.01.1990*) by Finance Act 1990 (c. 29, SIF 63:2), s. 63(1) and (3).
- F52** Sch. 8 para. 12(2A)-(2D) inserted(*for disposals on or after 22.01.1990*) by Finance Act 1990 (c. 29, SIF 63:2), s. 63(2) and (3).

#### Modifications etc. (not altering text)

- C21** Sch. 8 para. 12(2C)(b) modified by Finance Act 1990 (C. 29, SIF 63:2), s. 64(3).

#### Marginal Citations

- M165** 1934 c. 36.  
**M166** 1964 c. 28 (N.I.).  
**M167** 1975 c. 22  
**M168** 1986 c. 41.

### *Elections under section 96(5): groups of companies*

- 13 (1) A company may not make an election under section 96(5) of this Act at a time when it is a member but not the principal company of a group unless the company did not become a member of the group until after the relevant time.
- (2) Subject to sub-paragraph (3) below, an election under section 96(5) of this Act by a company which is the principal company of a group shall have effect also as an election by any other company which at the relevant time is a member of the group.
- (3) Sub-paragraph (2) above shall not apply in relation to a company which, in some period after 5th April 1988 and before the relevant time, is not a member of the group if—
- (a) during that period the company makes a disposal to which section 96 of this Act applies, and
  - (b) the period during which an election under subsection (5) of that section could be made expires without such an election having been made.
- (4) Sub-paragraph (2) above shall apply in relation to a company notwithstanding that the company ceases to be a member of the group at any time after the relevant time except where—
- (a) the company is an outgoing company in relation to the group, and
  - (b) the election relating to the group is made after the company ceases to be a member of the group.
- (5) In relation to a company which is the principal company of a group the reference in [F53 subsection (6)] of section 96 of this Act to the first relevant disposal is a reference to the first disposal to which that section applies by a company which is—
- (a) a member of the group but not an outgoing company in relation to the group, or
  - (b) an incoming company in relation to the group.

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### Textual Amendments

**F53** Words in [Sch. 8 para. 13\(5\)](#) substituted(*retrosp.*) by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), s. 141, [Sch. 15 para. 5](#).

- 14 (1) In paragraph 13 above “the relevant time”, in relation to a group of companies, is—
- (a) the first time when any company which is then a member of the group, and is not an outgoing company in relation to the group, makes a disposal to which section 96 of this Act applies,
  - (b) the time immediately following the first occasion when a company which is an incoming company in relation to the group becomes a member of the group,
  - (c) the time when an election is made by the principal company,
- whichever is earliest.
- (2) In paragraph 13 above and this paragraph—
- “incoming company”, in relation to a group of companies, means a company which—
- (a) makes its first disposal to which section 96 of this Act applies at a time when it is not a member of the group, and
  - (b) becomes a member of the group before the end of the period during which an election under subsection (5) of that section could be made in relation to it and at a time when no such election has been made, and
- “outgoing company”, in relation to a group of companies, means a company which ceases to be a member of the group before the end of the period during which an election under section 96(5) of this Act could be made in relation to it and at a time when no such election has been made.
- (3) Section 272 of the Taxes Act 1970 shall have effect for the purposes of paragraph 13 above and this paragraph as for those of sections 272 to 281 of that Act.

## SCHEDULE 9

Section 97.

### DEFERRED CHARGES ON GAINS BEFORE 31ST MARCH 1982

### Modifications etc. (not altering text)

**C22** [Sch. 9](#) excluded (E.W.S) (16.1.1992) by [S.I. 1992/58, art. 9](#), [Sch. 2 para.13](#)

### *Reduction of deduction or gain*

- 1 Where this Schedule applies—
- (a) in a case within paragraph 2 below, the amount of the deduction referred to in that paragraph, and



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- (b) in a case within paragraph [<sup>F54</sup>2A or] 3 below, the amount of the gain referred to in that paragraph, shall be one half of what it would be apart from this Schedule.

#### Textual Amendments

**F54** Words in Sch. 9 para. 1(b) inserted (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 101(2)

#### *Charges rolled-over or held-over*

- 2 (1) Subject to [<sup>F55</sup>sub-paragraphs (2) to (2B)] below, this Schedule applies on a disposal, not being a no gain/no loss disposal, of an asset on or after 6th April 1988 if—
- (a) the person making the disposal acquired the asset after 31st March 1982,
  - (b) a deduction falls to be made by virtue of any of the enactments specified in sub-paragraph (3) below from the expenditure which is allowable in computing the amount of any gain accruing on the disposal, and
  - (c) the deduction is attributable (whether directly or indirectly and whether in whole or in part) to a chargeable gain accruing on the disposal before 6th April 1988 of an asset acquired before 31st March 1982 by the person making that disposal.
- (2) This Schedule does not apply where, by reason of the previous operation of this Schedule, the amount of the deduction is less than it otherwise would be.
- [<sup>F56</sup>(2A) Where the disposal takes place on or after 19th March 1991, this Schedule does not apply if the amount of the deduction would have been less had relief by virtue of a previous application of this Schedule been duly claimed.
- (2B) Where—
- (a) the asset was acquired on or after 19th March 1991,
  - (b) the deduction is partly attributable to a claim by virtue of section 117(3) of the Capital Gains Tax Act 1979 (roll-over into non-depreciating asset instead of into depreciating asset), and
  - (c) the claim applies to the asset,
- this Schedule does not apply by virtue of this paragraph.]
- (3) The enactments referred to in sub-paragraph (1) above are—
- (a) section 21(4) and (5) of the <sup>M169</sup>Capital Gains Tax Act 1979 (roll-over where replacement asset acquired after receipt of compensation or insurance money);
  - (b) section 111A of that Act (roll-over where replacement land acquired on compulsory acquisition of other land);
  - (c) section 115 of that Act (roll-over where replacement asset acquired on disposal of business asset);
  - (d) section 123 of that Act (roll-over where shares acquired on disposal of business to company);
  - (e) section 126 of that Act (hold-over where business asset acquired by gift); and
  - (f) section 79 of the <sup>M170</sup>Finance Act 1980 (hold-over where asset acquired by gift).

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#### Textual Amendments

**F55** Words in Sch. 9 para. 2(1) substituted (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:2), s. 101(3)

**F56** Sch. 9 para. 2(2A)(2B) inserted (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:2), s. 101(4)

#### Marginal Citations

**M169** 1979 c. 14.

**M170** 1980 c. 48.

<sup>F57</sup>2A (1) This paragraph applies where this Schedule would have applied on a disposal but for paragraph 2(2B) above.

- (2) This Schedule applies on the disposal if paragraph 3 below would have applied had—
- (a) section 117(2) of the Capital Gains Tax Act 1979 (postponement of charge where depreciating asset acquired as replacement for business asset) continued to apply to the gain carried forward as a result of the claim by virtue of section 117(3) of that Act, and
  - (b) the time of the disposal been the time when that gain was treated as accruing by virtue of section 117(2) of that Act.]

#### Textual Amendments

**F57** Sch. 9 para. 2A inserted (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:2), s. 101(5)

### *Postponed charges*

- 3 (1) Subject to <sup>F58</sup>sub-paragraphs (3) and (4)] below <sup>F59</sup>and to paragraph 1 of Schedule 15 to the Finance Act 1989], this Schedule applies where—
- (a) by virtue of any of the enactments specified in sub-paragraph (2) below a gain is treated as accruing in consequence of an event occurring on or after 6th April 1988, and
  - (b) the gain is attributable (whether directly or indirectly and whether in whole or in part) to the disposal before 6th April 1988 of an asset acquired before 31st March 1982 by the person making that disposal.
- (2) The enactments referred to in sub-paragraph (1) above are—
- (a) section 268A of the Taxes Act 1970 (postponement of charge where securities acquired in exchange for business acquired by non-resident company);
  - (b) section 278(3) of that Act (charge on company leaving group in respect of asset acquired from another member of same group);
  - (c) section 84 of the <sup>M171</sup>Capital Gains Tax Act 1979 (postponement of charge where gilts acquired on compulsory acquisition of shares);
  - (d) section 111B(3) of that Act (postponement of charge where depreciating asset acquired on compulsory acquisition of land);
  - (e) section 117(2) of that Act <sup>F60</sup>. . . ;

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- (f) section 79 of the <sup>M172</sup>Finance Act 1981 (activation of charge rolled-over under section 79 of the Finance Act 1980 on emigration of donee); and
  - (g) paragraph 10 of Schedule 13 to the <sup>M173</sup>Finance Act 1984 (postponement of charge on reorganisation etc. involving acquisition of qualifying corporate bonds).
- (3) Where a gain is treated as accruing by virtue of section 278(3) of the Taxes Act 1970 this Schedule applies only if the asset was acquired by the chargeable company (within the meaning of section 278) before 6th April 1988.
- [<sup>F61</sup>(4) Where a gain is treated as accruing in consequence of an event occurring on or after 19th March 1991, this Schedule does not apply if—
- (a) the gain is attributable (whether directly or indirectly and whether in whole or part) to the disposal of an asset on or after 6th April 1988, or
  - (b) the amount of the gain would have been less had relief by virtue of a previous application of this Schedule been duly claimed.]

#### Textual Amendments

- F58** Words in Sch. 9 para. 3(1) substituted (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:2), s. 101(6)
- F59** Words in Sch. 9 para. 3(1) inserted (*retrosp.*) by Finance Act 1989 (c. 26, SIF 63:2), s. 141, Sch. 15 para. 2.
- F60** Words in Sch. 9 para. 3(2)(e) repealed (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:2), ss. 101(7), 123, Sch. 19 Pt.VI
- F61** Sch. 9 para. 3(4) inserted (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:2), s. 101(8)

#### Marginal Citations

- M171** 1979 c. 14.  
**M172** 1981 c. 35.  
**M173** 1984 c. 43.

#### *Previous no gain/no loss disposals*

- 4 Where—
- (a) a person makes a disposal of an asset which he acquired on or after 31st March 1982, and
  - (b) the disposal by which he acquired the asset and any previous disposal of the asset on or after 31st March 1982 was a no gain/no loss disposal,
- he shall be treated for the purposes of paragraphs 2(1)(c) and 3(1)(b) above as having acquired the asset before 31st March 1982.
- 5 (1) Sub-paragraph (2) below applies where—
- (a) on or after 6th April 1988 a person makes a disposal of an asset which he acquired on or after 31st March 1982,
  - (b) the disposal by which he acquired the asset was a no gain/no loss disposal, and

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- (c) a deduction falling to be made as mentioned in paragraph (b) of sub-paragraph (1) of paragraph 2 above which was attributable as mentioned in paragraph (c) of that sub-paragraph was made—
- (i) on that disposal, or
  - (ii) where one or more earlier no gain/no loss disposals of the asset have been made on or after 31st March 1982 and since the last disposal of the asset which was not a no gain/no loss disposal, on any such earlier disposal.
- (2) Where this sub-paragraph applies the deduction shall be treated for the purposes of paragraph 2 above as falling to be made on the disposal mentioned in sub-paragraph (1)(a) above and not on the no gain/no loss disposal.
- 6 For the purposes of this Schedule “no gain/no loss disposal” has the same meaning as in paragraph 1 of Schedule 8 to this Act.

*Assets derived from other assets*

- 7 The references in paragraphs 2(1)(c) and 3(1)(b) above to the disposal of an asset acquired by a person before 31st March 1982 include references to the disposal of an asset which was not acquired by the person before that date if its value is derived from another asset which was so acquired and of which account is to be taken in relation to the disposal under section 36 of the <sup>M174</sup>Capital Gains Tax Act 1979.

**Marginal Citations**

M174 1979 c. 14.

*Claims*

- 8 (1) No relief shall be given under this Schedule unless a claim is made—
- (a) in the case of a gain treated as accruing by virtue of section 278(3) of the Taxes Act 1970 to a company which ceases to be a member of a group, within the period of two years beginning at the end of the accounting period [<sup>F62</sup>in which] the company ceases to be a member of the group,
  - (b) in any other case, within the period of two years beginning at the end of the year of assessment or accounting period in which the disposal in question is made, or the gain in question is treated as accruing,
- or within such longer period as the Board may by notice in writing allow.
- (2) A claim under sub-paragraph (1) above shall be supported by such particulars as the inspector may require for the purpose of establishing entitlement to relief under this Schedule and the amount of relief due.

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#### Textual Amendments

- F62** Words in [Sch. 9 para. 8\(1\)\(a\)](#) substituted (25.7.1991)(in relation to claims made on or after 19. 03. 1991) by [Finance Act 1991 \(c. 31, SIF 63:2\), s. 101\(9\)\(10\)](#)

## SCHEDULE 10

Section 109.

### GAINS ARISING FROM CERTAIN SETTLED PROPERTY

#### Modifications etc. (not altering text)

- C23** [Sch. 10](#) excluded (25.07.1991) by [Finance Act 1991 \(c. 31, SIF 63:2\), s. 89\(1\), Sch. 16 para. 3\(1\)\(b\)](#)

#### *Charge on settlor with interest in settlement*

- 1 (1) Subject to paragraphs 3 and 4 below, this paragraph applies where—
- (a) in a year of assessment chargeable gains accrue to the trustees of a settlement from the disposal of any or all of the settled property,
  - (b) after making any deductions provided for by section 4(1) of the Capital Gains Tax Act 1979 in respect of disposals of the settled property there remains an amount on which the trustees would, disregarding section 5 (annual exemption) of that Act (and apart from this Schedule), be chargeable to tax for the year in respect of those gains, and
  - (c) at any time during the year the settlor has an interest in the settlement.
- (2) Where this paragraph applies, the trustees shall not be chargeable to tax in respect of the gains concerned but instead chargeable gains of an amount equal to that referred to in sub-paragraph (1)(b) above shall be treated as accruing to the settlor in the year.
- 2 (1) Subject to sub-paragraphs (2) and (3) below, for the purposes of paragraph 1(1)(c) above a settlor has an interest in a settlement if—
- (a) any property which may at any time be comprised in the settlement or any income which may arise under the settlement is, or will or may become, applicable for the benefit of or payable to the settlor or the spouse of the settlor in any circumstances whatsoever, or
  - (b) the settlor, or the spouse of the settlor, enjoys a benefit deriving directly or indirectly from any property which is comprised in the settlement or any income arising under the settlement.
- (2) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above if and so long as none of the property which may at any time be comprised in the settlement and none of the income which may arise under the settlement can become applicable or payable as mentioned in that paragraph except in the event of—
- (a) the bankruptcy of some person who is or may become beneficially entitled to that property or income;

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- (b) any assignment of or charge on that property or income being made or given by some such person;
  - (c) in the case of a marriage settlement, the death of both the parties to the marriage and of all or any of the children of the marriage; or
  - (d) the death under the age of 25 or some lower age of some person who would be beneficially entitled to that property or income on attaining that age.
- (3) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above if and so long as some person is alive and under the age of 25 during whose life none of the property which may at any time be comprised in the settlement and none of the income which may arise under the settlement can become applicable or payable as mentioned in that paragraph except in the event of that person becoming bankrupt or assigning or charging his interest in that property or income.
- 3 (1) Paragraph 1 above does not apply where the settlor dies during the year.
- (2) In a case where the settlor has an interest in the settlement only for either or both of the following reasons, namely—
- (a) that property or income is, or will or may become, applicable for the benefit of or payable to the settlor's spouse, and
  - (b) that the settlor's spouse enjoys a benefit from property or income,
- paragraph 1 above does not apply where the spouse dies, or the settlor and the spouse cease to be married, during the year.
- 4 Paragraph 1 above does not apply unless the settlor is, and the trustees are, either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year.

*Right of recovery*

- 5 (1) Where any tax becomes chargeable on and is paid by a person in respect of gains treated as accruing to him under paragraph 1 above he shall be entitled—
- (a) to recover the amount of the tax from any trustee of the settlement, and
  - (b) for that purpose to require an inspector to give him a certificate specifying—
    - (i) the amount of the gains accruing to the trustees in respect of which he has paid tax; and
    - (ii) the amount of tax paid;
 and any such certificate shall be conclusive evidence of the facts stated in it.
- (2) In order to ascertain for the purposes of sub-paragraph (1) above the amount of tax chargeable for any year by virtue of paragraph 1 above in respect of gains treated as accruing to any person, those gains shall be regarded as forming the highest part of the amount on which he is chargeable to capital gains tax for the year.
- <sup>F63</sup>(3) In a case where—
- (a) gains are treated as accruing to a person in a year under paragraph 2 of Schedule 16 to the Finance Act 1991, and

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- (b) gains are treated as accruing to the same person under paragraph 1 above in the same year,  
sub-paragraph (2) above shall have effect subject to paragraph 2(b) of that Schedule (gains treated as forming highest part of chargeable gains).]

#### Textual Amendments

**F63** Sch. 10 para. 5(3) inserted (25.07.1991) by Finance Act 1991 (c. 31, SIF 63:2), s. 89(3)

#### *Meaning of “settlor” etc.*

- 6 (1) For the purposes of this Schedule a person is a settlor in relation to a settlement if the settled property consists of or includes property originating from him.
- (2) In this Schedule—
- (a) references to settled property (and to property comprised in a settlement), in relation to any settlor, are references only to property originating from that settlor, and
- (b) references to income arising under a settlement, in relation to any settlor, are references only to income originating from that settlor.
- (3) References in this paragraph to property originating from a settlor are references to—
- (a) property which that settlor has provided directly or indirectly for the purposes of the settlement,
- (b) property representing that property, and
- (c) so much of any property which represents both property so provided and other property as, on a just apportionment, represents the property so provided.
- (4) References in this paragraph to income originating from a settlor are references to—
- (a) income from property originating from that settlor, and
- (b) income provided directly or indirectly by that settlor.
- (5) In sub-paragraphs (3) and (4) above—
- (a) references to property or income which a settlor has provided directly or indirectly include references to property or income which has been provided directly or indirectly by another person in pursuance of reciprocal arrangements with that settlor, but do not include references to property or income which that settlor has provided directly or indirectly in pursuance of reciprocal arrangements with another person, and
- (b) references to property which represents other property include references to property which represents accumulated income from that other property.

#### *Information*

- 7 (1) An inspector may by notice require any person who is or has been a trustee of, a beneficiary under, or a settlor in relation to, a settlement to give him within such time

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as he may direct, not being less than 28 days, such particulars as he thinks necessary for the purposes of this Schedule.

- (2) In the first column in the Table in section 98 of the <sup>M175</sup>Taxes Management Act 1970 (penalty for failure to give particulars etc.) there shall be added at the end— “ Paragraph 7(1) of Schedule 10 to the Finance Act 1988. ”

**Marginal Citations**

**M175** 1970 c. 9.

*Shares in non-resident companies*

- 8 The reference in paragraph 1(1)(a) above to gains accruing to trustees from the disposal of settled property includes a reference to gains treated as accruing to them under section 15 of the <sup>M176</sup>Capital Gains Tax Act 1979 (non-resident companies) and the reference in paragraph 1(1)(b) above to deductions in respect of disposals of the settled property includes a reference to deductions on account of losses treated under that section as accruing to the trustees.

**Marginal Citations**

**M176** 1979 c. 14.

*Maintenance funds for historic buildings*

- 9 Where the trustees of a settlement have elected that section 691(2) of the Taxes Act 1988 (certain income of maintenance funds for historic buildings not to be income of settlor etc.) shall have effect in the case of any settlement or part of a settlement in relation to a year of assessment, the preceding provisions of this Schedule shall not apply in relation to the settlement or part for the year.

*Commencement*

- 10 This Schedule shall have effect for the year 1988–89 and subsequent years of assessment.



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## SCHEDULE 11

Section 114.

### CAPITAL GAINS INDEXATION: GROUPS AND ASSOCIATED COMPANIES

#### *Debts*

- 1 (1) Subject to sub-paragraph (3) below, where—
- (a) there is a disposal by a company of a linked company debt on a security owed by another company, and
  - (b) the two companies are linked companies immediately before the disposal,
- there shall be no indexation allowance on the disposal.
- (2) Subject to sub-paragraph (3) below, where—
- (a) there is a disposal by a company of a debt on a security owed by another company which is not a linked company debt on a security, and
  - (b) the two companies are linked companies immediately before the disposal,
- then, in ascertaining any indexation allowance due on the disposal, RD as defined in section 87(2) of the <sup>M177</sup>Finance Act 1982 shall be taken as the retail prices index for the first month after the acquisition of the debt in which the two companies were linked companies (or, if later, March 1982).
- (3) Where—
- (a) there is a disposal by a company of a debt on a security owed by another company,
  - (b) the debt constituted or formed part of the new holding received by the company making the disposal on a reorganisation, and
  - (c) sub-paragraph (1) or (2) above would apply in relation to the disposal but for this sub-paragraph,
- neither of those sub-paragraphs shall apply in relation to the disposal, but any indexation allowance which, apart from this sub-paragraph, would be due on the disposal shall be reduced by such amount as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable.
- (4) For the purposes of this paragraph a debt on a security owed by a company is a linked company debt on a security where immediately after its acquisition by the company making the disposal the two companies were linked companies.

#### **Marginal Citations**

M177 1982 c. 39.

- 2 Where—
- (a) there is a disposal by a company of a debt on a security owed by any person,
  - (b) the company and that person are not linked companies immediately before the disposal, and
  - (c) the debt was incurred by that person as part of arrangements involving another company being put in funds,

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paragraph 1 above shall have effect if and to the extent that it would if the debt were owed by that other company.

### *Shares*

- 3 (1) This paragraph applies—
- (a) where there is a disposal by a company of—
    - (i) a holding of redeemable preference shares of another company, or
    - (ii) a holding of shares, other than redeemable preference shares, of another company which has at all times consisted entirely of, or has at any time included, linked company shares, or
  - (b) where—
    - (i) there is a disposal by a company of a holding of shares of another company which is not a holding falling within paragraph (a) above,
    - (ii) the holding constituted or formed part of the new holding received by the company making the disposal on a reorganisation, and
    - (iii) but for section 78 of the <sup>M178</sup>Capital Gains Tax Act 1979 that reorganisation (or in a case where the holding disposed of derives, in whole or in part, from assets which were original shares in relation to an earlier reorganisation, that reorganisation or any such earlier reorganisation) would have involved a disposal in relation to which paragraph 1 above would have applied or this paragraph would have applied by virtue of paragraph (a) above,

if the two companies are linked companies immediately before the disposal.
- (2) Where this paragraph applies, any indexation allowance which, apart from this paragraph, would be due on the disposal shall be reduced by such amount as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable.
- (3) For the purposes of this paragraph shares of a company are linked company shares where—
- (a) immediately after their acquisition by the company making the disposal the two companies were linked companies,
  - (b) their acquisition by the company making the disposal was wholly or substantially financed by one or more linked company loans or linked company funded subscriptions (or by a combination of such loans and subscriptions), and
  - (c) the sole or main benefit which might have been expected to accrue from that acquisition was the obtaining of an indexation allowance on a disposal of the shares.
- (4) In sub-paragraph (3) above—
- “linked company loan” means a loan made to the company making the disposal by another company where immediately after the acquisition of the shares by the company making the disposal the two companies were linked companies, and
  - “linked company funded subscription” means a subscription for shares in the company making the disposal by another company where—

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- (a) immediately after the acquisition of the shares by the company making the disposal those two companies were linked companies, and
  - (b) the subscription was wholly or substantially financed, either directly or indirectly, by one or more linked company subscription-financing loans.
- (5) In sub-paragraph (4) above “linked company subscription-financing loan” means a loan made by a company to the subscribing company or any other company where immediately after the acquisition of the shares by the company making the disposal—
- (a) the company making the loan, and
  - (b) the subscribing company, and
  - (c) where the company to which the loan was made was not the subscribing company, that company,
- were linked companies.

#### Marginal Citations

M178 1979 c. 14.

#### *Linked companies*

- 4 For the purposes of this Schedule companies are linked companies if they are members of the same group or are associated with each other; and for the purposes of this paragraph—
- (a) “group” means a company which has one or more 51 per cent. subsidiaries together with that subsidiary or those subsidiaries (section 838 (meaning of 51 per cent. subsidiary) of the Taxes Act 1988 having effect for the purposes of this paragraph as for those of the Tax Acts), and
  - (b) two companies are associated with each other if one controls the other or both are under the control of the same person or persons (section 416(2) to (6) (meaning of control) of the Taxes Act 1988 having effect for the purposes of this paragraph as for those of Part XI of that Act).

#### Modifications etc. (not altering text)

**C24** Sch. 11 para. 4 applied (*retrospective to 09.06.1989*) by Finance Act 1990(c. 29, SIF 63:1,2), s. 56, Sch. 10 paras. 5(5), 29(4).

#### *Supplementary*

- 5 Where a disposal of a holding of shares follows one or more disposals of the same holding to which section 273(1) <sup>[F64]</sup> or 273A of the Taxes Act 1970 (which treat] certain intra-group transactions as producing neither a gain nor a loss) applied, paragraph 3(3) to (5) above shall have effect as if the references to the company making the disposal were references to the company which last acquired the asset otherwise than on a disposal to which <sup>[F64]</sup> either of those sections] applied.

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### Textual Amendments

**F64** Words in Sch. 11 para. 5 substituted (for disposals on or after 20.03.1990) by Finance Act 1990 (c. 29, SIF 63:1,2), s. 70(8)(9).

- 6 (1) In this Schedule “redeemable preference shares” means shares in a company which are described as such in the terms of their issue or which fulfil the condition in paragraph (a) below and either or both of the conditions in paragraphs (b) and (c) below—
- (a) that, as against other shares in the company, they carry a preferential entitlement to a dividend or to any assets in a winding up or both;
  - (b) that, by virtue of the terms of their issue, the exercise of a right by any person or the existence of any arrangements, they are liable to be redeemed, cancelled or repaid, in whole or in part;
  - (c) that, by virtue of any arrangements—
    - (i) to which the company which issued the shares is a party, or
    - (ii) where that company and another company are linked companies at the time of the issue, to which that other company is a party,
 the holder has a right to require another person to acquire the shares or is obliged in any circumstances to dispose of them or another person has a right or is in any circumstances obliged to acquire them;
- and for the purposes of paragraph (a) above shares are to be treated as carrying a preferential entitlement to a dividend as against other shares if, by virtue of any arrangements, there are circumstances in which a minimum dividend will be payable on those shares but not on others.
- (2) In this Schedule the expressions “reorganisation”, “original shares” and “new holding” have the meanings given by section 77 of the <sup>M179</sup>Capital Gains Tax Act 1979 except that, in a case where sections 78 and 79 of that Act apply in circumstances other than a reorganisation (within the meaning of section 77 of that Act) by virtue of any other provision of Chapter II of Part IV of that Act (conversion of securities, company reconstructions and amalgamations etc.), those expressions shall be construed as they fall to be construed in sections 78 and 79 as they so apply.
- (3) In this Schedule—
- “holding”, in relation to shares, means a number of shares which are to be regarded for the purposes of the Capital Gains Tax Act 1979 as indistinguishable parts of a single asset,
  - “indexation allowance” has the same meaning as in Chapter III of Part III of the <sup>M180</sup>Finance Act 1982, and
  - “security” has the same meaning as in section 82 of the <sup>M181</sup>Capital Gains Tax Act 1979.

### Marginal Citations

**M179** 1979 c. 14.  
**M180** 1982 c. 39.  
**M181** 1979 c. 14.

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### *Commencement*

- 7 This Schedule shall apply to disposals on or after 15th March 1988.

## SCHEDULE 12

Section 145.

### BUILDING SOCIETIES: CHANGE OF STATUS

#### *Introductory*

- 1 Paragraphs 2 to 7 below apply where there is a transfer of the whole of a building society's business to a company ("the successor company") in accordance with section 97 and the other applicable provisions of the <sup>M182</sup>Building Societies Act 1986.

#### **Marginal Citations**

**M182** 1986 c. 53.

#### *Gilt-edged securities and other financial trading stock*

- 2 (1) For the purposes of section 100(1) of the Taxes Act 1988 (valuation of trading stock on discontinuance of trade) the society's financial trading stock shall be valued at an amount equal to its cost to the society.
- (2) In computing for any corporation tax purpose the profits or gains of a trade carried on by the successor company, such of the assets comprised in the transfer as constituted the society's financial trading stock shall be regarded as acquired by the company at their cost to the society.
- (3) In this paragraph "financial trading stock", in relation to a building society, means such of the assets held by the society by virtue of regulations under section 21(7) of the Building Societies Act 1986 (liquid assets etc.) as constitute trading stock for the purposes of section 100 of the Taxes Act 1988.

#### *Capital allowances*

- 3 (1) For the purposes of the allowances and charges provided for by the <sup>F65</sup>Capital Allowances Act 1990] (capital allowances) the trade of the society shall not be treated as permanently discontinued and the trade of the successor company shall not be treated as a new trade set up and commenced by the successor company.
- (2) There shall be made to or on the successor company in accordance with those Acts all such allowances and charges as would, if the society had continued to carry on the trade, have fallen to be made to or on it, and the amount of any such allowance

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or charge shall be computed as if the successor company had been carrying on the trade since the society began to do so and as if everything done to or by the society had been done to or by the successor company.

- (3) No transfer of assets from the society to the successor company effected by section 97 of the Building Societies Act 1986 shall be treated as giving rise to any such allowance or charge.

#### Textual Amendments

**F65** Words in [Sch. 12 para. 3\(1\)](#) substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(3), [Sch. 1 para. 9\(4\)](#).

*Capital gains: assets acquired from society, etc.*

- 4 (1) Where the society and the successor company are not members of the same group at the time of the transfer—
- (a) they shall be treated for the purposes of corporation tax on capital gains as if any asset disposed of as part of the transfer were acquired by the successor company for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the society, and
  - (b) if because of the transfer any company ceases to be a member of the same group as the society, that event shall not cause section 278 of the Taxes Act 1970 (which treats a company ceasing to be a member of a group as having sold and reacquired at the time of acquisition assets acquired from another member of the group) to have effect as respects any asset acquired by the company from the society or any other member of the same group.
- (2) Where the society and the successor company are members of the same group at the time of the transfer but later cease to be so, that later event shall not cause section 278 to have effect as respects—
- (a) any asset acquired by the successor company on or before the transfer from the society or any other member of the same group, or
  - (b) any asset acquired from the society or any other member of the same group by any company other than the successor company which is a member of the same group at the time of the transfer.
- (3) Subject to sub-paragraph (5) below, where a company which is a member of the same group as the society at the time of the transfer—
- (a) ceases to be a member of that group and becomes a member of the same group as the successor company, and
  - (b) subsequently ceases to be a member of that group,
- section 278 shall have effect on that later event as respects any relevant asset acquired by the company otherwise than from the successor company as if it had been acquired from the successor company.
- (4) In sub-paragraph (3) above “relevant asset” means any asset acquired by the company—
- (a) from the society, or

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- (b) from any other company which is a member of the same group at the time of the transfer,  
when the company and the society, or the company, the society and the other company, were members of the same group.
- (5) Sub-paragraph (3) above shall not apply if the company which acquired the asset and the company from which it was acquired (one being a 75 per cent. subsidiary of the other) cease simultaneously to be members of the same group as the successor company but continue to be members of the same group as one another.
- (6) For the purposes of this paragraph “group” shall be construed in accordance with section 272 of the Taxes Act 1970.

*Capital gains: shares, and rights to shares, in successor company*

- 5 (1) Where, in connection with the transfer, there are conferred on members of the society—
- (a) any rights to acquire shares in the successor company in priority to other persons, or
  - (b) any rights to acquire shares in that company for consideration of an amount or value lower than the market value of the shares, or
  - (c) any rights to free shares in that company,
- any such right so conferred on a member shall be regarded for the purposes of capital gains tax as an option (within the meaning of section 137 of the <sup>M183</sup>Capital Gains Tax Act 1979) granted to, and acquired by, him for no consideration and having no value at the time of that grant and acquisition.
- (2) Where, in connection with the transfer, shares in the successor company are issued by that company, or disposed of by the society, to a member of the society, those shares shall be regarded for the purposes of capital gains tax—
- (a) as acquired by the member for a consideration of an amount or value equal to the amount or value of any new consideration given by him for the shares (or, if no new consideration is given, as acquired for no consideration); and
  - (b) as having, at the time of their acquisition by the member, a value equal to the amount or value of the new consideration so given (or, if no new consideration is given, as having no value);
- but this sub-paragraph is without prejudice to the operation of sub-paragraph (1) above, where applicable.
- (3) Sub-paragraph (4) below applies in any case where—
- (a) in connection with the transfer, shares in the successor company are issued by that company, or disposed of by the society, to trustees on terms which provide for the transfer of those shares to members of the society for no new consideration; and
  - (b) the circumstances are such that in the hands of the trustees the shares constitute settled property, within the meaning of the Capital Gains Tax Act 1979.
- (4) Where this sub-paragraph applies, then, for the purposes of capital gains tax—
- (a) the shares shall be regarded as acquired by the trustees for no consideration;

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- (b) the interest of any member in the settled property constituted by the shares shall be regarded as acquired by him for no consideration and as having no value at the time of its acquisition;
  - (c) where a member becomes absolutely entitled as against the trustees to any of the settled property, both the trustees and the member shall be treated as if, on his becoming so entitled, the shares in question had been disposed of and immediately reacquired by the trustees, in their capacity as trustees within section 46(1) of the Capital Gains Tax Act 1979, for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss would accrue to the trustees (and accordingly section 54 of that Act shall not apply in relation to that occasion); and
  - (d) on the disposal by a member of an interest in the settled property, other than the disposal treated as occurring for the purposes of paragraph (c) above, any gain accruing shall be a chargeable gain (and accordingly section 58(1) of the Capital Gains Tax Act 1979 shall not apply in relation to the disposal).
- (5) Where, in connection with the transfer, the society disposes of any shares in the successor company, then, for the purposes of the Capital Gains Tax Act 1979, any gains arising on the disposal shall not be chargeable gains.
- (6) In this paragraph—
- “free shares”, in relation to a member of the society, means any shares issued by the successor company, or disposed of by the society, to that member in connection with the transfer but for no new consideration;
  - “member”, in relation to the society, means a person who is or has been a member of it, in that capacity, and any reference to a member includes a reference to a member of any particular class or description;
  - “new consideration” means consideration other than—
- (a) consideration provided directly or indirectly out of the assets of the society; or
  - (b) consideration derived from a member’s shares or other rights in the society.
- (7) References in this paragraph to the case where a member becomes absolutely entitled to settled property as against the trustees shall be taken to include references to the case where he would become so entitled but for being an infant or otherwise under disability.

#### **Marginal Citations**

**M183** 1979 c. 14.

#### *Distributions*

- 6 (1) Where, in connection with the transfer, qualifying benefits are conferred by the society or the successor company on members of the society, the conferring of those benefits shall not be regarded as either—
- (a) the making of a distribution, within the meaning of the Corporation Tax Acts; or



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- (b) the payment or crediting of a dividend for the purposes of [<sup>F66</sup>section 477A] of the Taxes Act 1988 or any regulations under that section (building society interest etc.).
- (2) Sub-paragraph (1) above does not preclude any qualifying benefit (and, in particular, any qualifying benefit which in the hands of the recipient would, apart from that sub-paragraph, constitute income for the purposes of income tax) from being a capital distribution for the purposes of section 72 of the <sup>M184</sup>Capital Gains Tax Act 1979, and in that section “distribution” shall be construed accordingly.
- (3) In this paragraph “qualifying benefits” means—
- (a) any such rights as are mentioned in paragraph 5(1)(a), (b) or (c) above, and any property obtained by the exercise of those rights;
  - (b) any shares issued or disposed of as mentioned in paragraph 5(2) above;
  - (c) any shares issued or disposed of, or to which a member becomes entitled, as mentioned in paragraph 5(3) or (4) above, and any interest in the settled property constituted by those shares;
  - (d) any payment in lieu of a qualifying benefit falling within paragraphs (a) to (c) above;
  - (e) any distribution made in pursuance of section 100(2)(b) of the <sup>M185</sup>Building Societies Act 1986.
- (4) “Member” has the same meaning in this paragraph as in paragraph 5 above.

#### Textual Amendments

**F66** Words in Sch. 12 para. 6(1)(b) substituted (25.07.1991)(*where qualifying benefits are conferred on or after 06.04.1991*) by Finance Act 1991 (c. 31, SIF 63:1), s. 79(1)(2)

#### Marginal Citations

**M184** 1979 c. 14.

**M185** 1986 c. 53.

### *Contractual savings schemes*

- 7 The following provisions, namely—
- (a) section 326 of the Taxes Act 1988 (certain sums to be disregarded for income tax purposes), and
  - (b) section 149B(4) of the Capital Gains Tax Act 1979 (corresponding provision for capital gains tax purposes),
- shall have effect in relation to any terminal bonus, or interest or other sum, payable after the transfer under a savings scheme which immediately before the transfer was a certified contractual savings scheme (within the meaning of section 326) in relation to the society notwithstanding that it ceased to be such a scheme by reason of the transfer.

*Status: Point in time view as at 27/07/1991.*

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### Stamp duty

- 8 Section 109 of the <sup>M186</sup>Building Societies Act 1986 (exemption from stamp duty) shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted—
- “(2) No transfer effected by subsection (6) or (7) of section 97 shall give rise to any liability to stamp duty.”

#### Marginal Citations

M186 1986 c. 53.

## SCHEDULE 13

Section 146.

### POST-CONSOLIDATION AMENDMENTS

#### PART I

#### AMENDMENTS OF THE TAXES ACT 1988

- 1 The Taxes Act 1988 shall have effect, and shall be deemed always to have had effect, subject to the amendments specified in paragraphs 2 to 14 of this Schedule.
- 2 In section 61(4) after the word “where” there shall be inserted the words “ there is a change in the persons engaged in carrying on a trade, profession or vocation in partnership and ”.
- 3 In section 162(1) after the word “Where” there shall be inserted the words “ after 6th April 1976 ”.
- 4 In section 178(1)(a) after the word “with” there shall be inserted the words “its terms or in accordance with”.
- 5 In section 533(4) after “1949” there shall be inserted the words “ , sections 55 to 59 of the Patents Act 1977 ”.
- 6 In section 591(5) and (6) after the word “made” there shall be inserted the words “ by the Board ”.
- 7 In section 824—
- (a) in subsection (1) the following paragraphs shall be substituted for paragraphs (a) and (b)—
- “(a) in the case of income tax or surtax paid by or on behalf of an individual for a year of assessment for which he was resident in the United Kingdom, a repayment of the tax of not less than £25 is made by the Board or an inspector after the end of the 12 months following that year of assessment; or

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(b) in the case of the special charge under Part IV of the Finance Act 1968, a repayment of the charge of not less than £25 is made by the Board or an inspector,”

<sup>F67</sup>(b) .....

(c) in subsection (2) for the words “Subsection (1)” there shall be substituted the words “ Subsections (1) and (1A) ” and for the words “it applies to a repayment falling within that subsection” there shall be substituted the words “ they apply to a repayment falling within subsection (1) ”,

(d) the following subsection shall be inserted after that subsection—

“(2A) Subsection (1) above shall apply to a repayment made in consequence of a claim under section 228 of the Income Tax Act 1952 (relief in respect of income accumulated under trusts) as if the repayment were of income tax paid by the claimant for the year of assessment in which the contingency mentioned in that section happened.”

(e) in subsection (3) the following paragraph shall be inserted after paragraph (a)—

“(aa) if the repayment is of the special charge, the relevant time, as regards so much of the charge as was paid before the end of the year 1969-70, is the end of that year, and, as regards so much of the charge as was paid in any later year of assessment, is the end of the year of assessment in which it was paid;”

<sup>F67</sup>(f) .....

**Textual Amendments**

**F67** Sch. 13 para. 7(b) and (f) repealed by Finance Act 1989 (c. 26, SIF 63:1), ss. 187(1), 178(7), Sch. 17 Pt. X.

<sup>F68g</sup> .....

**Textual Amendments**

**F68** Sch. 13 para. 8 repealed by Finance Act 1989 (c. 26, SIF 63:1), ss. 187(1), 178(7), Sch. 17 Pt. X.

9 In paragraph 2 of Schedule 10 after sub-paragraph (c) there shall be inserted the word “ or ”.

10 In paragraph 17(2)(a) of Schedule 15 after the words “but the old policy was” there shall be inserted the word “ not ”.

11 In paragraph 18(2) of that Schedule for “1 to 9” there shall be substituted “ 1, 2, 3(5) to (11), 4 to 9 ”.

12 In paragraph 4(3)(b) of Schedule 27 for “416” there shall be substituted “ 75 ”.

13 In paragraph 8 of Schedule 29 for the words “added after paragraph (f)” there shall be substituted the words “ substituted for paragraph (g) ”.

14 In the Table in paragraph 32 of that Schedule the amendments of —

(a) section 55(1)(g) of the <sup>M187</sup>Taxes Management Act 1970,

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- (b) section 108(9)(b) of the <sup>M188</sup>Finance Act 1980, and
  - (c) section 80(5)(b) of the <sup>M189</sup>Finance Act 1985,
- shall be omitted.

**Marginal Citations**  
**M187** 1970 c. 9.  
**M188** 1980 c. 48.  
**M189** 1985 c. 54.

- 15 The repeals made in section 47 of the Finance (No. 2) Act 1975 shall be treated as never having had effect.

**PART II**

AMENDMENTS OF OTHER ENACTMENTS

*The Capital Gains Tax Act 1979 (c.14)*

- 16 In section 34(4)(a) of the Capital Gains Tax Act 1979 for the words “section 79(1) of the Taxes Act” there shall be substituted the words “section 33(1) of the Taxes Act 1988”.
- 17 In section 149B(1)(c) of that Act for “614(4)” there shall be substituted “614(2)”.
- 18 In section 155(2) of that Act for “282(1) and (2)” there shall be substituted “282”.

*The Finance Act 1980 (c.48)*

- 19 In section 101 of the Finance Act 1980 for the words “60 above” there shall be substituted the words “468(5) of the Taxes Act 1988”.
- 20 In section 109(8)(b) of that Act for the words “Part II of that Act” there shall be substituted the words “ Chapter V of Part XII of the Taxes Act 1988 ”.

*The Finance Act 1981 (c.35)*

<sup>F69</sup>21 .....

*The Finance Act 1984 (c.43)*

- 22 In section 80(5)(b) of the Finance Act 1984 for the words “13 of the <sup>M190</sup>Oil Taxation Act 1975” there shall be substituted the words “ 492 of the Taxes Act 1988 ”.

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**Marginal Citations**

M190 1975 c. 45.

*The Finance Act 1986 (c.41)*

<sup>F70</sup>23 .....

**Textual Amendments**

**F70** Sch. 13 para. 23 repealed by Finance Act 1990 (c. 29, SIF 114), ss. 110, 132, Sch. 19 Pt. VII and Sch. 13 para. 23 expressed to be repealed (19.3.1997 with effect in accordance with s. 104 of the repealing Act) by 1997 c. 16, s. 113, Sch. 18 Pt. VII, note 10

*The Finance Act 1987 (c.16)*

24 The repeals made by the Finance Act 1987 in section 47 of the <sup>M191</sup>Finance (No. 2) Act 1975 shall be treated as never having had effect.

**Marginal Citations**

M191 1975 c. 45

*Commencement*

25 The amendments made by paragraphs 16 to 23 of this Schedule shall be treated for the purposes of their commencement as if they had been made by the Taxes Act 1988.

SCHEDULE 14

Section 148.

REPEALS

**PART I**

CUSTOMS AND EXCISE

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 93(2)(c), the words “(other than operations consisting of the mixing of spirits with wine or made-wine)”.
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 1(3), the words “thereof at any time”.

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		Section 22(7).
		In section 42(6), the words “but as respects” onwards.
		In section 43(4), the words “but as respects” onwards.
1981 c. 63.	The Betting and Gaming Duties Act 1981.	In Schedule 1, in paragraph 13(3)(a), the words from “or, with intent” to “material particular”. In Schedule 2, in paragraph 7(3)(a), the words from “or, with intent” to “material particular”.
1	The repeal in section 1 of the Alcoholic Liquor Duties Act 1979 comes into force on the day appointed under section 1(6) of this Act.	
2	The repeals in sections 42 and 43 of that Act have effect from 1st October 1988.	
3	The repeals in the Betting and Gaming Duties Act 1981 have effect in relation to offences committed after the passing of this Act.	

## PART II

### VEHICLES EXCISE DUTY

Chapter	Short title	Extent of repeal
1971 c. 10.	The Vehicles (Excise) Act 1971.	In section 2, in subsection (1), paragraph (c) and in subsection (4), paragraph (c) and the words “or paragraph (c)”. Section 10(2)(f). In section 13(1), the words “(except a seven day licence)”. In section 14(2) (c), the words “or seven day licences”. In section 38(1), the definition of “seven day licence”.
1972 c. 10 (N.I.).	The Vehicles (Excise) Act (Northern Ireland) 1972.	In section 2, in subsection (1), paragraphs (c) and (d), subsection (1A) and in subsection (5), paragraph (c) and the words “or paragraph (c)”. Section 10(2)(f). In section 13(1), the words “(except a seven day licence)”. In section 14(2) (c), the words “or seven day

These repeals have effect from 1st June 1988.

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1982 c. 39.	The Finance Act 1982.	licences”.In section 35(1), the definition of “seven day licence”.
1983 c. 28.	The Finance Act 1983.	Section 5(5).In section 6, subsections (5) and (6).
		Section 4(4).

These repeals have effect from 1st June 1988.

### PART III

#### VALUE ADDED TAX

Chapter	Short title	Extent of repeal
1983 c. 55.	The Value Added Tax Act 1983.	In section 14(7), the words “or to pay tax”.Section 40(1)(i).
1984 c. 43.	The Finance Act 1984.	Section 12.
1985 c. 54.	The Finance Act 1985.	In section 14, in subsection (1), the words “paragraph (a) or paragraph (b) of”, in subsection (6), the words “nor be taken into account under subsection (2)(b) above” and, in subsection (7), the words “and shall not be taken into account under subsection (2)(b) above”.Section 18(2).Section 33(4).In Schedule 7, paragraph 1(1).
1987 c. 16.	The Finance Act 1987.	Section 13(4).In section 14, subsections (7) to (9).

### PART IV

#### INCOME AND CORPORATION TAX: GENERAL

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 18, in subsection (1), the words “other than interest to which subsection (4) below applies” and subsection (4).

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1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 482, in subsection (1), paragraphs (a) and (b), subsections (7) to (9) and, in subsection (10), the words “and a body corporate” onwards. In Schedule 10, in paragraph 7(3), the words “the investments forming part of the premiums trust fund of the underwriter”.
1973 c. 51.	The Finance Act 1973.	In Schedule 16, paragraph 16.
1975 c. 45.	The Finance (No. 2) Act 1975.	In section 47, in subsection (1), the words “income tax, surtax or” and paragraph (b) and the word “or” immediately preceding it, in subsection (2), the words “by virtue of subsection (7) below”, subsection (3), in subsection (4), paragraph (b) and the words “, subject to subsection (6) below,”, subsections (5) to (7), in subsection (8), the words “or in respect” onwards and subsections (9) and (10).
1980 c. 48.	The Finance Act 1980.	Section 71.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 1(3), the words “and the” onwards. Section 39(3). Section 258. In section 261, the words “258 or”. Sections 263 and 264. Section 265(3). Section 275. In section 278, in subsection (2), the words “Subject to subsection (3) below,” and subsections (3) to (7). In section 280(2)(b)(i), the reference to section 258. Section 284(1)(b). In section 289(14), the words “paragraph 3 of Schedule 2”. In section 348(3), the words from “a small” to “or to”. In section 349(3), the words “and subsection (1)” onwards. Section 351. In section 355, in subsection (1)(a) the words “or of a



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dependent relative or former or separated spouse of his,” and subsection (3). In section 357(2)(a), the words “or of a dependent relative or former or separated spouse of his”. In section 358(4)(a), the words “or of any dependent relative of the deceased”. In section 452(8)(a), the words “the investments forming part of the premiums trust fund of the underwriter”. In section 577, subsections (2), (4) and (6). In section 694(2), the words “at the rate of 30 per cent.”. In section 765, in subsection (1), paragraphs (a) and (b). In section 767, subsections (1) to (4) and, in subsection (5), the words “and a body corporate” onwards. Section 780(5). In section 832(1), in the definition of “higher rate”, the words “and any” onwards. In section 833, in subsection (3), the words “or Schedule 2”, and paragraph (c) and the word “or” immediately preceding it, and, in subsection (4)(c), the reference to Schedule A. In section 835(5), the words “nor” onwards. Schedule 2. In Schedule 11, paragraphs 4 to 7. In Schedule 29 in paragraph 7, sub-paragraphs (1) and (3), and in the Table in paragraph 32, the entries relating to section 55(1)(g) of the Taxes Management Act 1970, paragraph 13 of Schedule 8 to the Finance Act 1971, section 108(9)(b) of the Finance Act 1980 and section 80(5)(b) of the Finance Act 1985.

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1 The repeals in section 482 of the Income and Corporation Taxes Act 1970 and sections 765 and 767 of the Income and Corporation Taxes Act 1988 have effect from 15th March 1988 but subject to section 105(6) of this Act.

*Status: Point in time view as at 27/07/1991.*

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- 2 The repeals in Schedule 10 to the Income and Corporation Taxes Act 1970 and the Finance Act 1973 have effect for the years 1986-87 and 1987-88.
- 3 The repeal in the Finance Act 1980 has effect from 16th March 1988.
- 4 The repeals in section 278 of the Income and Corporation Taxes Act 1988 have effect for the year 1990-91 and subsequent years of assessment.
- 5 The repeal of section 351(1) to (7) of that Act and the repeals in sections 348 and 349 have effect in relation to payments made on or after 6th April 1989; and the repeal of section 351(8) has effect in relation to orders and variations made on or after that date.
- 6 The repeals in sections 355, 357 and 358 of that Act have effect in accordance with section 44 of this Act.
- 7 The repeals in section 577 of that Act have effect in accordance with section 72 of this Act.
- 8 The repeals in Schedule 11 to that Act have effect in relation to payments to which section 74 of this Act applies.
- 9 The remaining repeals have effect for the year 1988-89 and subsequent years of assessment.

## PART V

### COMMERCIAL WOODLANDS

Chapter	Short title	Extent of repeal
1968 c. 43.	The Capital Allowances Act 1968.	In section 47, subsection (1) (b) and, in subsection (2), the words “(including woodlands)”. In section 69, the definitions of “forestry land” and “forestry income”. In section 70(7), the words from “and the occupation of woodlands” to “Schedule D”. Section 79(3). Section 85(4). In section 87(5), the words “This subsection” onwards. In Schedule 9, in paragraph 4, the words “or the occupation of woodlands in the United Kingdom”.
1970 c. 9.	The Taxes Management Act 1970.	In section 50(5), the proviso. In Schedule 3, in rule 4, the words “An appeal against an assessment under Schedule B and”.
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 1, the entry for Schedule B. Section

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		67(3).Part IV.In section 108, in paragraph 1(b) of Schedule D, the reference to Schedule B.In section 109(2), in Case VI, the reference to Schedule B.Section 111.Section 168(8).In section 169(10), the words from “and in relation to the occupation of woodlands” to “paragraph 4 of Schedule 6 to the Finance Act 1988”.Section 171(5).Section 174(13).In section 226(9)(c), the words “Schedule B or”.In section 238(4)(b), the words “or the occupation of woodlands” onwards.Section 347(8)(b).In section 351(1) (a), the reference to Schedule B.Section 360(1)(b).In section 515(6), the words from “and in relation to the occupation of woodlands” to “Schedule D”.In section 530(1)(c), the words “Schedule B”.
1971 c. 68.	The Finance Act 1971.	Section 47(1)(b).
1972 c. 41.	The Finance Act 1972.	In Schedule 16, in paragraph 10(4A), the words “or Schedule B”.
1984 c. 43.	The Finance Act 1984.	Section 51.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 1, the reference to Schedule B.In section 6(4)(b), the words “or the occupation of woodlands” onwards.Section 15(3).Section 16.In section 18, in subsection (1), in paragraph (b) of Schedule D, and in subsection (3), in Case VI, the reference to Schedule B.Section 54.Section 380(4).In section 383(12)(a), the words from “and in relation to the occupation of woodlands” to “paragraph 4 of Schedule 6 to the Finance Act 1988”.Section 385(6).Section 389(8).Section 491(10)

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		(b).Section 505(1)(b).In section 512(1)(a), the reference to Schedule B.In section 623(2)(c), the words “Schedule B or”.In section 810(6), the words from “and in relation to the occupation of woodlands” to “Schedule D”.In section 833(4)(c), the reference to Schedule B.
1988 c. 39.	The Finance Act 1988.	In Schedule 6, paragraphs 4 and 5(1).

- 1 The repeals in the Taxes Management Act 1970, the repeals in sections 1, 67, 108, 109, 226(9)(c), 351(1)(a) and 530(1)(c) of the Income and Corporation Taxes Act 1970, the repeals of Part IV and section 360(1)(b) of that Act, the repeal in the Finance Act 1972, the repeal in the Finance Act 1984, the repeals in sections 1, 15, 18, 512(1)(a), 623(2)(c) and 833(4)(c) of the Income and Corporation Taxes Act 1988 and the repeal of sections 16 and 505(1)(b) of that Act have effect from 6th April 1988.
- 2 The repeals of section 111 of the Income and Corporation Taxes Act 1970 and section 54 of the Income and Corporation Taxes Act 1988 have effect from 15th March 1988.
- 3 The remaining repeals have effect from 6th April 1993.

## PART VI

### UNAPPROVED EMPLOYEE SHARE SCHEMES

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In the Table in section 98, the reference to Schedule 12 to the Finance Act 1972 and in that Table as substituted by the Income and Corporation Taxes Act 1988, the reference to section 139 of that Act.
1972 c. 41.	The Finance Act 1972.	Section 79.Schedule 12 (except the definitions of “market value” and “shares” in paragraph 6).
1973 c. 51.	The Finance Act 1973.	Section 19.Schedule 8.
1974 c. 30.	The Finance Act 1974.	Section 20(2).
1979 c. 14.	The Capital Gains Tax Act 1979.	In Schedule 7, in the Table in paragraph 9, the entry

These repeals have effect in relation to acquisitions on or after 26th October 1987.

*Status: Point in time view as at 27/07/1991.*

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		relating to section 79(9) of the Finance Act 1972.
1982 c. 39.	The Finance Act 1982.	In section 41, the words “Paragraph 5 of Schedule 8 to the Finance Act 1973 and”.
1984 c. 43.	The Finance Act 1984.	Sections 40 and 41.
1986 c. 41.	The Finance Act 1986.	In section 23(4)(a), the words “and also to Schedule 8 to the Finance Act 1973” and the words “and share incentive”.Section 26(3) to (5) and (6)(b) to (d).
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 138 and 139.

These repeals have effect in relation to acquisitions on or after 26th October 1987.

## PART VII

### CAPITAL GAINS: GENERAL

Chapter	Short title	Extent of repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 280(1)(b), the words “unless the ultimate disposal occurred before 30th April 1969,”.
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 3. In section 101(8), the words “(being a time after 30th July 1978)”.
1985 c. 54.	The Finance Act 1985.	In section 68(4), the words “to which this subsection applies”. In Schedule 20, paragraph 16(4)(a) and (5).
1987 c. 16.	The Finance Act 1987.	Section 47.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 29, in the Table in paragraph 32, the entries relating to section 266(4) of the Companies Act 1985 and the entries relating to Article 274(4) of the Companies (North-ern Ireland) Order 1986.

- 1 The repeals in the Income and Corporation Taxes Act 1988 have effect for companies’ accounting periods ending after 5th April 1988.
- 2 The remaining repeals have effect in relation to disposals made on or after 6th April 1988.

*Status: Point in time view as at 27/07/1991.*

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## PART VIII

### MARRIED COUPLES

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 8(3B), the words “or of his wife living with him”.Section 11A(3).In section 13(1)(c), the words “,or is a married woman,”.In section 29(8), the words “and “return under Part II of this Act”” onwards.In section 93(1) the words from “or section 284(4)” to “wife”.In section 95(1) (a), the words from “or section 284(4)” to “wife”.
1975 c. 14.	The Social Security Act 1975.	In Schedule 2, paragraph 4.
1975 c. 15.	The Social Security (Northern Ireland) Act 1975.	In Schedule 2, paragraph 4.
1979 c. 14.	The Capital Gains Tax Act 1979.	Section 4(2).In section 5(6), the words “husbands and wives,”.Section 45.In Schedule 1, paragraphs 2 and 3.
1980 c. 48.	The Finance Act 1980.	Section 77(4)(b) and (d).
1982 c. 39.	The Finance Act 1982.	In section 80(3)(b), the words “2(1) and”.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 256, the words “and 287 and 288”.Sections 279 to 281.Sections 283 to 288.Section 304(1) to (4).In section 325, the words “and for this purpose” onwards.Section 347B(6).In section 361, in subsection (4) (d) the words “or his spouse” and in subsection (5) the words “, or whose spouses,”.Section 382(1) and (2).In section 420(2) (a)(i), the words “or the wife or husband of the borrower”.Section 525(5).Section 527(3).In section 535(5), the second sentence.Section

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		<p>574(2)(b) and (c). In section 623, subsection (1), in subsection (2) the words “Subject to subsection (1) above,” in subsection (6) (c) the words “or of the individual’s wife or husband”, in subsection (7) (a) the words “or that of his wife or her husband” and in subsection (8) the words “either” and “or to that individual’s wife or husband”.</p> <p>Section 644(7). In section 646, in subsections (2)(d), (5)(a) and (7) the words “or the individual’s wife or husband”. Section 703(7) and (8). In section 833(4), the second sentence. In Schedule 14, paragraph 1(2) and (3). In Schedule 29, in the Table in paragraph 32, the entries relating to sections 29(8), 93(1) and 95(1)(a) of the Taxes Management Act 1970 and paragraph 4 of Schedule 2 to the Social Security Act 1975 and those relating to the Social Security (Northern Ireland) Act 1975.</p>
1988 c. 39.	The Finance Act 1988.	<p>Section 40(3).</p> <p>In Schedule 10, in paragraph 5, in sub-paragraph (1), the words “(or, if he is a married man, to his wife)” and sub-paragraphs (3) to (5).</p>
1	The repeals in section 361 of the Income and Corporation Taxes Act 1988 have effect in accordance with paragraph 15 of Schedule 3 to this Act.	
2	The repeals in sections 382 and 574 of that Act have effect in relation to relief given for the year 1990-91 or a subsequent year of assessment.	
3	The repeal in section 420(2) of that Act has effect in accordance with paragraph 16 of Schedule 3 to this Act.	
4	The repeal in section 525 of that Act has effect in relation to tax paid or borne or payable or falling to be paid or borne for the year 1990-91 or a subsequent year of assessment.	

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- 5 The repeals in sections 527 and 535 of that Act have effect in relation to tax payable for the year 1990-91 or a subsequent year of assessment.
- 6 The remaining repeals have effect for the year 1990-91 and subsequent years of assessment.

## PART IX

### TAX APPEALS ETC. IN NORTHERN IRELAND

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 2(6), the second sentence. In section 58, subsection (1), in subsection (2) the word “Special” and subsection (4). Section 59. In section 100(4), the words “(or, in Northern Ireland, the Special Commission-ers)”.
1975 c. 22.	The Oil Taxation Act 1975.	In section 20(2), the words “or, in Northern Ireland, to a county court”. In Schedule 2, in the Table in paragraph 1(1), in the entry relating to section 58(3) of the Taxes Management Act 1970, the words “Omit the references to section 59 and.”.
1975 c. 45.	The Finance (No. 2) Act 1975.	In section 45(3), the words “and section 59(6) (election for county court in Northern Ireland)” and the word “each”.
1978 c. 23.	The Judicature (Northern Ireland) Act 1978.	In Schedule 5, in Part II, in the entry relating to the Taxes Management Act 1970, the words “and 59(5)”.
S.I.1980/397 (N.I.3).	The County Courts (Northern Ireland) Order 1980.	In Schedule 1, in Part II, the entry relating to section 59(3) of the Taxes Management Act 1970.
1981 c. 35.	The Finance Act 1981.	In Schedule 17, in the Table in paragraph 18(1), in the entry relating to section 58(3) of the Taxes Management Act

Subject to any provision made by an order under subsection (9) of section 134 of this Act, these repeals come into force on the day appointed under subsection (4) of that section but do not affect any proceedings which by virtue of subsection (5) of that section are unaffected by subsections (1) to (3) of that section.



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1988 c. 1.	The Income and Corporation Taxes Act 1988.	1970, the words “Omit the reference to section 59and”. In Schedule 29, in the Table in paragraph 32, the entry relating to section 58(3)(b) of the Taxes Management Act 1970.
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Subject to any provision made by an order under subsection (9) of section 134 of this Act, these repeals come into force on the day appointed under subsection (4) of that section but do not affect any proceedings which by virtue of subsection (5) of that section are unaffected by subsections (1) to (3) of that section.

## PART X

### INHERITANCE TAX

Chapter	Short title	Extent of repeal
1984 c. 51.	The Inheritance Tax Act 1984.	Section 8(1A).In section 24(1), paragraph (b) and the word “and” immediately preceding it.In section 29(5), “(1 (b),”.Section 206.In section 226(3), the words “or, as the case may be, one year” and paragraph (b) and the word “or” immediately preceding it.In section 236(1), paragraph (b) and the word “and” immediately preceding it.
1986 c. 41.	The Finance Act 1986.	In Schedule 19, paragraph 3(2).

These repeals have effect in relation to transfers of value made on or after 15th March 1988.

## PART XI

### STAMP DUTY

Chapter	Short title	Extent of repeal
54 & 55 Vict. c. 39.	The Stamp Act 1891.	In Schedule 1, the whole of the heading “Unit Trust Instrument”.
8 & 9 Geo. 6 c. 42.	The Water Act 1945.	Section 41(8).
9 & 10 Geo. 6 c. 64.	The Finance Act 1946.	Section 53.

These repeals have effect from 22nd March 1988.

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9 & 10 Geo. 6 c. 17 (N.I.).	The Finance (No.2) Act (Northern Ireland) 1946.	Section 24.
10 & 11 Eliz. 2 c. 44.	The Finance Act 1962.	Section 30.
10 & 11 Eliz. 2 c. 17 (N.I.).	The Finance Act (Northern Ireland) 1962.	Section 3.
1963 c. 25.	The Finance Act 1963.	In section 65(2), the words “and in section 30 of the Finance Act 1962”.
1963 c. 22 (N.I.).	The Finance Act (Northern Ireland) 1963.	In section 14(2), the words “and in section 3 of the Finance Act (Northern Ireland) 1962”.
1968 c. 73.	The Transport Act 1968.	In section 160, subsections (2) and (3).
1971 c. 11.	The Atomic Energy Authority Act 1971.	Section 22(2).
1973 c. 51.	The Finance Act 1973.	Sections 47 to 49.Schedule 19.
S.I. 1973/1323 (N.I. 18).	The Finance (Miscellaneous Provisions) (Northern Ireland) Order 1973.	Articles 8 to 10.Schedule 2.
1976 c. 40.	The Finance Act 1976.	Section 128.
1980 c. 26.	The British Aerospace Act 1980.	Section 3(6).
1980 c. 34.	The Transport Act 1980.	Section 46(6).
1980 c. 48.	The Finance Act 1980.	In Schedule 18, in paragraph 12, sub-paragraphs (2) and (3).
1980 c. 60.	The Civil Aviation Act 1980.	Section 4(7).
1981 c. 35.	The Finance Act 1981.	In section 110, the words “section 30 of the Finance Act 1962 and section 3 of the Finance Act (Northern Ireland) 1962”.
1981 c. 38.	The British Telecommunications Act 1981.	In section 81, subsections (2) and (3).
1981 c. 56.	The Transport Act 1981.	In Schedule 1, paragraph 4.In Schedule 4, paragraph 7(1).
1982 c. 25.	The Iron and Steel Act 1982.	Section 13(2).
1984 c. 12.	The Telecommunications Act 1984.	Section 61(7).Section 63(5).

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1984 c. 32.	The London Regional Transport Act 1984.	In section 64, subsections (1) to (6) and (8).
1984 c. 59.	The Ordnance Factories and Military Services Act 1984.	Section 13(3).
1985 c. 6.	The Companies Act 1985.	Section 161.
1985 c. 9.	The Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entry relating to the Finance Act 1973.
1985 c. 67.	The Transport Act 1985.	In section 131, subsections (1) to (5).
1986 c. 31.	The Airports Act 1986.	In section 76, subsections (1), (2) and (5).
1986 c. 44.	The Gas Act 1986.	Section 51(7).Section 52(5).
S.I. 1986/1032 (N.I.6).	The Companies (Northern Ireland) Order 1986.	Article 171.
S.I. 1986/1035 (N.I.9).	The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.	In Part I of Schedule 1, the entry relating to the Finance (Miscellaneous Provisions) (Northern Ireland) Order 1973.

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